BERKELEY CITY COUNCIL BUDGET & FINANCE COMMITTEE
SPECIAL MEETING

Thursday, June 12, 2025
9:30 AM

Cypress Room – 2180 Milvia Street, 1st Floor, Berkeley, CA 94704

Committee Members:

Mayor Adena Ishii, Councilmembers Rashi Kesarwani and Brent Blackaby
Alternate: Councilmember Igor Tregub

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. All Committee meetings are recorded.

Use this URL https://cityofberkeley-info.zoomgov.com/j/1610882361 to access the meeting remotely. To request to speak, use the "raise hand" function in Zoom. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and Enter **Meeting ID: 161 088 2361.** To provide public comment, press *9 and wait to be recognized by the Chair. To submit a written communication for the Committee's consideration and inclusion in the public record, email policycommittee@berkeleyca.gov.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting, however, if you are feeling sick, please do not attend the meeting in person.

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AGENDA

Roll Call

Minutes for Approval

Draft minutes for the Committee's consideration and approval.

1. Minutes - May 15 and 22, 2025

Committee Action Items

The public may comment on each item listed on the agenda for action as the item is taken up. The Chair will determine the number of persons interested in speaking on each item. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Chair may limit the public comment for all speakers to one minute per speaker.

Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.

2. Fiscal Year 2026 Mid-Biennial Budget Update *(Item contains supplemental material)*
From: City Manager
Recommendation: Receive a presentation on the preliminary FY 2026 Mid-Biennial Budget Update, including proposed balancing strategies, and provide recommendations.
Financial Implications: See report
Contact: Shana Amenaghawon, City Manager's Office, (510) 981-7000
Henry Oyekanmi, Finance, (510) 981-7300

3. Remove pre-transfer eligibility restriction of the transfer tax rebate for wildfire hardening
From: Disaster and Fire Safety Commission
Referred: May 5, 2025
Due: October 12, 2025
Recommendation: Adopt first reading of an ordinance removing the 1-year pre-transfer eligibility restriction of the transfer tax rebate for wildfire hardening from BMC 7.52.060, to encourage early mitigation efforts.
Financial Implications: See report
Contact: Keith May, Commission Secretary, (510) 981-3473

Unscheduled Items

These items are not scheduled for discussion or action at this meeting. The Committee may schedule these items to the Action Calendar of a future Committee meeting.

Unscheduled Items

4. Recommendations for the Formulation of Advanced Fiscal Policies to Institutionalize Strategic Bond Issuance, Optimize Municipal Investment Returns, and Leverage Intergovernmental and Philanthropic Capital Funding
From: Councilmember Taplin (Author), Councilmember Bartlett (Co-Sponsor)
Referred: June 2, 2025
Due: October 19, 2025
Recommendation: (1) Establish a Structured Bond Issuance Framework
Refer to the City Manager development and presentation to the Council of a comprehensive fiscal policy that institutionalizes a regular, predictive schedule for general obligation bond issuance. This policy should be informed by actuarial and capital market analysis of the City's bonding capacity and be modeled on established frameworks utilized in fiscally disciplined jurisdictions such as San Francisco and Santa Monica. The goal is to remediate the City's substantial deferred maintenance liabilities and strategically advance the Capital Improvement Program (CIP).
(2) Modernize Investment Policy and Establish a Capital Grant Matching Fund
Refer to the City Manager the enactment of a detailed review and performance benchmarking of the City's current investment policies, ordinances, and resolutions. Based on this review, the City Manager should recommend:
-Amendments to align Berkeley's portfolio management practices with those of peer jurisdictions in the Bay Area; -Asset strategies that maintain compliance with CA Government Code §53600 et seq. while improving yields through enhanced diversification and duration matching; -Establishment of a dedicated Capital Grant Matching Fund, capitalized with a designated portion of net investment returns, to maximize Berkeley's competitiveness in securing grants under federal programs such as the Infrastructure Investment and Jobs Act (IIJA), the Inflation Reduction Act (IRA), and state-funded resilience initiatives. (3) Develop a Comparative Bond Issuance Analysis and Timeline. Refer the City Manager to conduct a comprehensive analysis of historical general obligation bond issuance and debt service rates in Berkeley and comparable jurisdictions. The analysis should:
-Examine 30 years of municipal bond trends, showing the consistency of low interest rates during fiscally disciplined cycles; -Compare Berkeley's historical borrowing costs with those of San Francisco, Santa Monica, and Palo Alto; -Demonstrate the efficacy of maintaining a regular issuance schedule every 6–10 years to preserve low borrowing rates and steady bond ratings; -Present a 30-year fiscal projection showing that with prudent debt layering and consistent retirement of obligations, Berkeley can issue up to $250–$300 million in bonds in successive tranches while maintaining fiscal health and AAA-quality debt service coverage ratios.
The City Manager is requested to return with a projected 25–30 year financing timeline that identifies capital milestones, projected issuances, debt service loads, and cost-saving thresholds compared to inflation-driven delays. This timeline shall be paired with policy recommendations to ensure adherence to long-range financial planning objectives.
Financial Implications: See report
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

Items for Future Agendas

- **Requests by Committee Members to add items to the next agenda**

Adjournment

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Written communications submitted by mail or e-mail to the Budget & Finance Committee by 5:00 p.m. the Friday before the Committee meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Members of the City Council who are not members of the standing committee may attend a standing committee meeting even if it results in a quorum being present, provided that the non-members only act as observers and do not participate in the meeting. If only one member of the Council who is not a member of the committee is present for the meeting, the member may participate in the meeting because less than a quorum of the full Council is present. Any member of the public may attend this meeting. Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900.

COMMUNICATION ACCESS INFORMATION:
This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at ada@berkeleyca.gov, (510) 981-6418 (V), or (510) 981-6347 (TDD) at least three business days before the meeting date. Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.

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I hereby certify that the agenda for this meeting of the Standing Committee of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on June 5, 2025.

Mark Numainville, City Clerk

Communications

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BERKELEY CITY COUNCIL BUDGET & FINANCE COMMITTEE SPECIAL MEETING MINUTES

Thursday, May 15, 2025
10:00 AM

Cypress Room – 2180 Milvia Street, 1st Floor, Berkeley, CA 94704

Committee Members:

Mayor Adena Ishii, Councilmembers Rashi Kesarwani and Brent Blackaby
Alternate: Councilmember Igor Tregub

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AGENDA

Roll Call: 10:04 a.m.

Present: Tregub (for Kesarwani), Blackaby, Ishii

Minutes for Approval

Draft minutes for the Committee's consideration and approval.

1. **Minutes - April 24, 2025**
   Action: M/S/C (Blackaby/Tregub) to approve the minutes of 4/24/2025.
   Vote: All Ayes.

Councilmember Blackaby exited the meeting for the consideration of Item 2 at 10:06 a.m. due to Brown Act participation rules.

Committee Action Items

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Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.

2. **Fire Facility Revenue Measures** *(Item contains supplemental material)*
   From: Councilmember Terry Taplin (Author), Councilmember Blackaby (Co-sponsor), Councilmember Humbert (Co-sponsor), Mayor Ishii (Co-sponsor)
   Referred: April 14, 2024
   Due: September 22, 2025
   Recommendation: Refer to the City Manager the assessment of potential 2026 revenue ballot measures to support capital improvements to fire department facilities and return recommendations for council adoption.
   Financial Implications: See report
   Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
   Action: 1 speaker. M/S/C (Ishii/Kesarwani) to forward the item to Council with a positive recommendation.
   Vote: All Ayes.

Councilmember Blackaby joined the meeting after the consideration of Item 2 at 10:21 a.m. due to Brown Act participation rules.

Councilmember Tregub exited the meeting at 10:58 a.m.

Councilmember Kesarwani joined the meeting at 10:59 a.m.

Committee Action Items

3. Fiscal Year 2026 Mid-Biennial Budget Update *(Item contains supplemental material)*
From: City Manager
Recommendation: Receive a presentation on the preliminary FY 2026 Mid-Biennial Budget Update, including proposed balancing strategies, and provide recommendations.
Financial Implications: See report
Contact: Sharon Friedrichsen, City Manager's Office, (510) 981-7000,
Henry Oyekanmi, Finance, (510) 981-7300
Action: 12 speakers. Presentation made and discussion held. Item continued to the next meeting.

4. Presentation: Marina Fund FY26 Updated Budget and Five-Year Forecast
From: City Manager
Recommendation: Receive an update on the FY25 Marina Fund.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Item continued to the next meeting.

Unscheduled Items

These items are not scheduled for discussion or action at this meeting. The Committee may schedule these items to the Action Calendar of a future Committee meeting.

5. Remove pre-transfer eligibility restriction of the transfer tax rebate for wildfire hardening
From: Disaster and Fire Safety Commission
Referred: May 5, 2025
Due: October 12, 2025
Recommendation: Adopt first reading of an ordinance removing the 1-year pre-transfer eligibility restriction of the transfer tax rebate for wildfire hardening from BMC 7.52.060, to encourage early mitigation efforts.
Financial Implications: See report
Contact: Keith May, Commission Secretary, (510) 981-3473

Items for Future Agendas

- None

Adjournment

Action: M/S/C (Ishii/Kesarwani) to adjourn the meeting.
Vote: All Ayes.

Adjourned at 12:04 p.m.

I hereby certify that the foregoing is a true and correct record of the Budget & Finance Committee meeting held on May 15, 2025.

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Neetu Salwan, Assistant City Clerk

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BERKELEY CITY COUNCIL BUDGET & FINANCE COMMITTEE

SPECIAL MEETING MINUTES

Thursday, May 22, 2025
1:30 PM

Cypress Room – 2180 Milvia Street, 1st Floor, Berkeley, CA 94704

Committee Members:

Mayor Adena Ishii, Councilmembers Rashi Kesarwani and Brent Blackaby
Alternate: Councilmember Igor Tregub

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Roll Call: 1:33 p.m.

Present: Blackaby, Ishii, Kesarwani

Absent: None

Committee Action Items

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Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.

1. **Presentation: Marina Fund FY26 Updated Budget and Five-Year Forecast**
   From: City Manager
   Recommendation: Receive an update on the FY25 Marina Fund.
   Financial Implications: See report
   Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
   Action: 2 speakers. Presentation made and discussion held. The Committee completed their consideration of this item.

2. **Fiscal Year 2026 Mid-Biennial Budget Update** *(Item contains supplemental material)*
   From: City Manager
   Recommendation: Receive a presentation on the preliminary FY 2026 Mid-Biennial Budget Update, including proposed balancing strategies, and provide recommendations.
   Financial Implications: See report
   Contact: Sharon Friedrichsen, City Manager's Office, (510) 981-7000,
   Henry Oyekanmi, Finance, (510) 981-7300
   Action: 1 speaker. Presentation from the Police Department and discussion. Presentation by the Fire Department and discussion. Item continued to the next meeting.

3. **Remove pre-transfer eligibility restriction of the transfer tax rebate for wildfire hardening**
From: Disaster and Fire Safety Commission
Referred: May 5, 2025
Due: October 12, 2025
Recommendation: Adopt first reading of an ordinance removing the 1-year pre-transfer eligibility restriction of the transfer tax rebate for wildfire hardening from BMC 7.52.060, to encourage early mitigation efforts.
Financial Implications: See report
Contact: Keith May, Commission Secretary, (510) 981-3473
Action: Item continued to next meeting.

Unscheduled Items

- None

Items for Future Agendas

- Discussion of Measure U1 and Measure P; Discussion of Parking Fund; Discussion of Charter Officer budgets

Adjournment

Action: M/S/C (Ishii/Blackaby) to adjourn the meeting.
Vote: All Ayes.

Adjourned at 3:33 p.m.

I hereby certify that the foregoing is a true and correct record of the Budget & Finance Committee meeting held on May 22, 2025.

_____
Mark Numainville, City Clerk

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Berkeley Fire

Staffing & Overtime Analysis

Definitions

Minimum Staffing: The minimum number of responders that must be working per day to keep fire stations open and handle the call volume and community risk

Leave: **C**ontractually provided sick leave, vacation, etc

Voluntary Overtime: When an employee voluntarily agrees to work more than their base 56hr/week schedule to achieve minimum staffing

Mandatory/Forced Overtime: When there are no volunteers and the department forces an employee to work beyond their normally scheduled 56hr/week to maintain minimum staffing

The Four Primary Contributors of Overtime

Permanent Vacancies

Is one of two primary drivers of overtime (in Operations). Permanent vacancies occur due to retirements, resignations and releases.

=/> 6% vacancy rate drives recruitment

We have worked hard to reduce the permanent vacancy rate from ~17% to 3%.

Long-Term Leave

Is the other primary driver of overtime. Employee injuries that result in long-term vacancies are often filled by personnel working overtime.

Currently 9% of employees are out on injury leave (16 FTE)

Injury leave (9%) + Permanent vacancies (3%) = 12% (21 FTE) that require backfill

Entry Level FF Training

One 22 week FF academy per year. Curriculum is regulated by the California State Fire Marshal's Office

Personnel are temporarily assigned to run the Academy – which cause vacancies in firehouses.

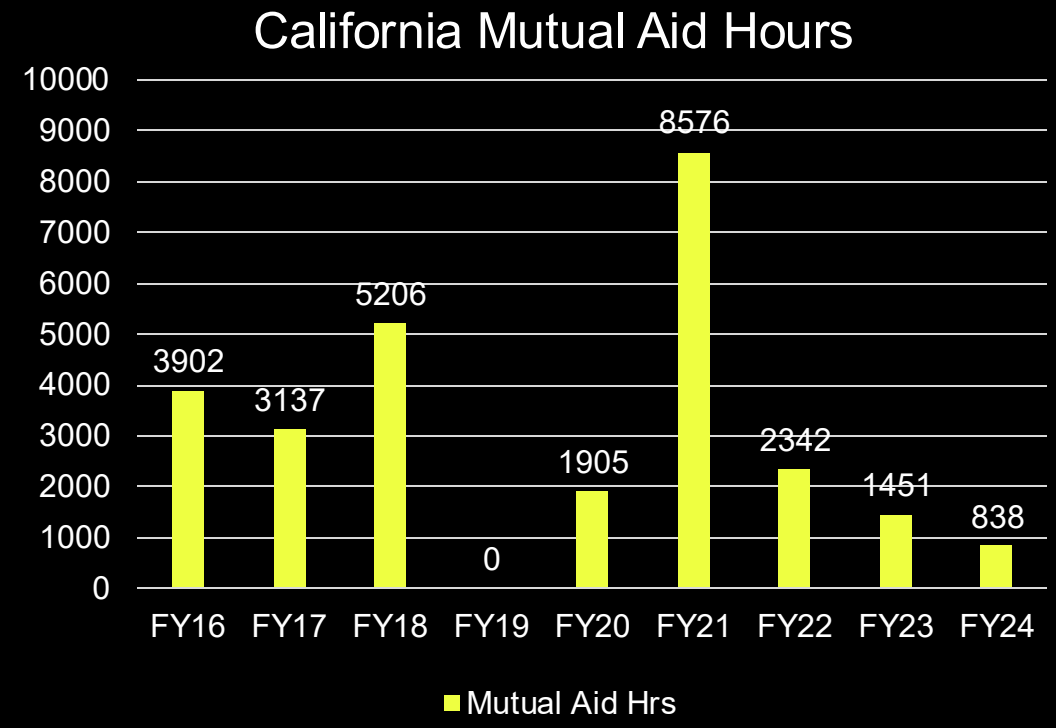
Instructors with subject matter expertise are used throughout the academy and are paid overtime.

Entry Level EMS Training

One or two 8 week paramedic academies per year.

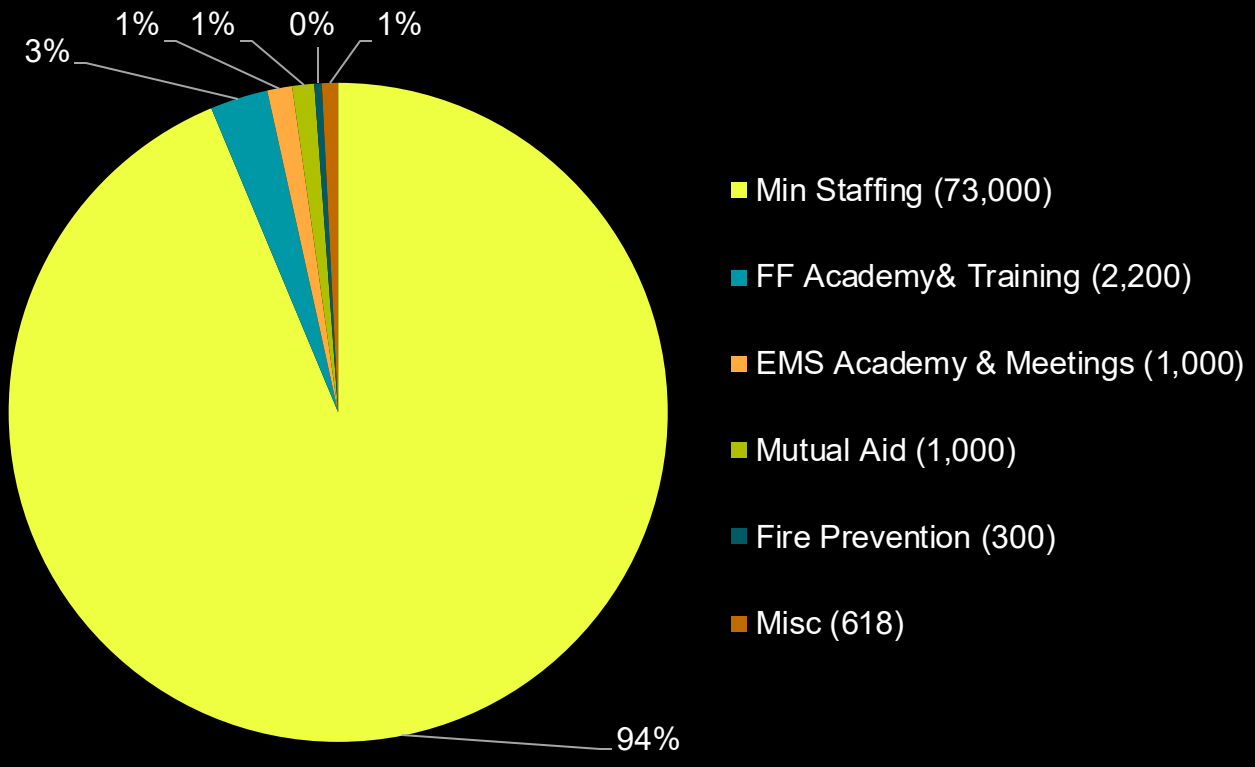
Similarly, personnel are temporarily assigned – which cause vacancies in the firehouses.

Instructors with SME are used throughout the academy and are paid overtime.


California Mutual Aid Hours
10000
9000
8000
7000
6000
5000
4000
3000
2000
1000
0
3902
3137
5206
0
1905
8576
2342
1451
838
FY16
FY17
FY18
FY19
FY20
FY21
FY22
FY23
FY24
Mutual Aid Hrs

BFD
BFD

FY24: Primary Contributors to Fire Department Overtime



Fire Company Minimum Staffing

Fire Engine (Top): The engine's primary purpose is to carry and pump water from a 500gal tank and/or from fire hydrants. It also carries a variety of other equipment.

One Captain
One Apparatus Operator
One to Two Firefighters (EMT or Paramedic)

Ambulance (Middle): The ambulance's primary purpose is to bring a mini-emergency room anywhere in the city.

Two Paramedics

Tillered ladder truck (Bottom): The truck is a giant rolling toolbox also capable of reaching eight stories high (depending on setback) with its ladder.

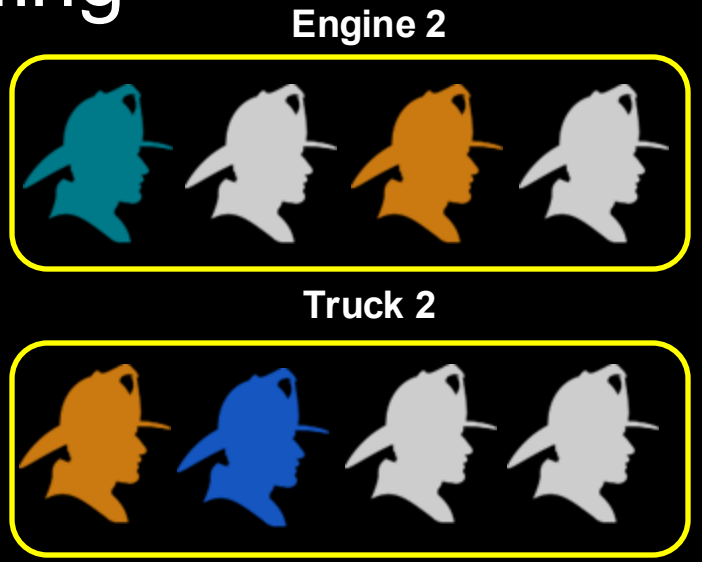
One Captain
Two Apparatus Operators
On Firefighter (EMT or Paramedic)

Fire Company Minimum Staffing

When an employee is absent due to…

- sick leave, vacation, comp/due time (Short Term)
- FMLA, parental leave or injury (Long-Term)
- retirement, resignation, release (Permanent)

…the vacancy is backfilled by float personnel first, then voluntary overtime, then forced/mandatory overtime.



Budgeted Overtime Has Not Kept Pace

The General Fund overtime budget increases have not been sufficient to keep pace with increasing labor costs and a stubbornly higher (permanent and temporary) vacancy rate.

	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
COLAs		4.0% (8/18)	2.0% (7/19)		2.5% (11/21)	3.5% (7/22)	3% (7/23)	3% (7/24)
Differentials					1% EMT		2% Cert 4-12% Longevity	2% Cert
Salary Realignment					10.07% CPT 2.81% AO 2.48% FF			
GF Budgeted	$1.5m	$1.5m	$1.7m	$1.7m	$1.6m	$1.7m	$1.6m	$3.2

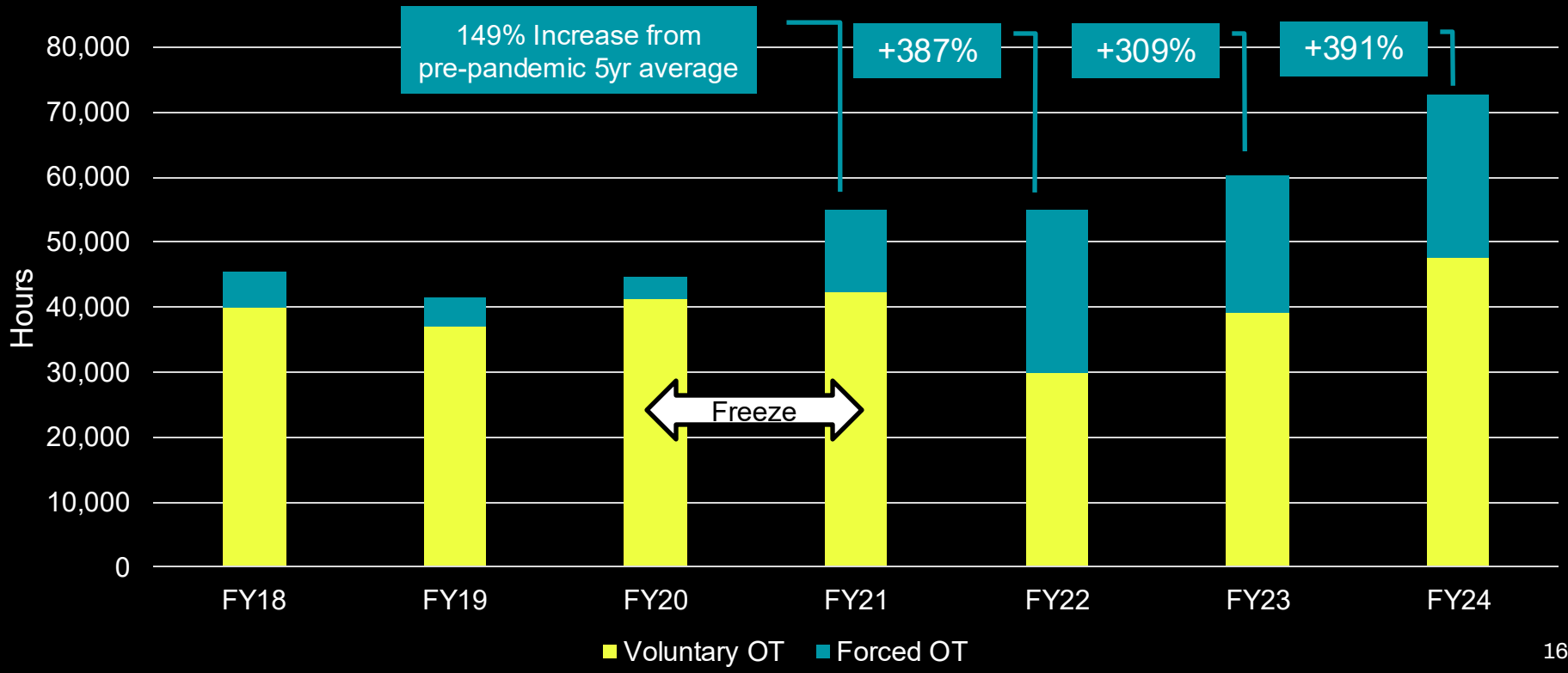
Overtime Comes from Several Sources

Measure GG supplements GF overtime up to the point where use of funds jeopardize savings for known capital asset replacement: radios, cardiac monitors, mechanical CPR devices, station alerting.

GG overspending occurred in FY 2023 (red) – which could not be sustained in FY 2024 – that burden shifted to the GF (orange).

	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Gen. Fund Budget	$1.5m	$1.5	$1.7	$1.7	$1.6	$1.7	$1.6	$3.2
Gen. Fund Actual	$1.6	$1.8	$1.8	$2.2	$2.7	$3.0	**$4.8**	*~$5.4*
Measure GG Actual	$2.7	$2.5	$2.5	$3.0	$2.6	**$4.3**	$2.2	*~$2.2*
Medic Tax	$0.2	$0.2	$0.3	$0.3	$0.3	$0.3	$0.5	*~$0.3*
Total	$4.5	$4.5	$4.6	$5.5	$5.6	$7.6	$7.5	*~$7.9*

FY21: Available overtime exceeds capacity of workforce, indicated by spike in forced overtime

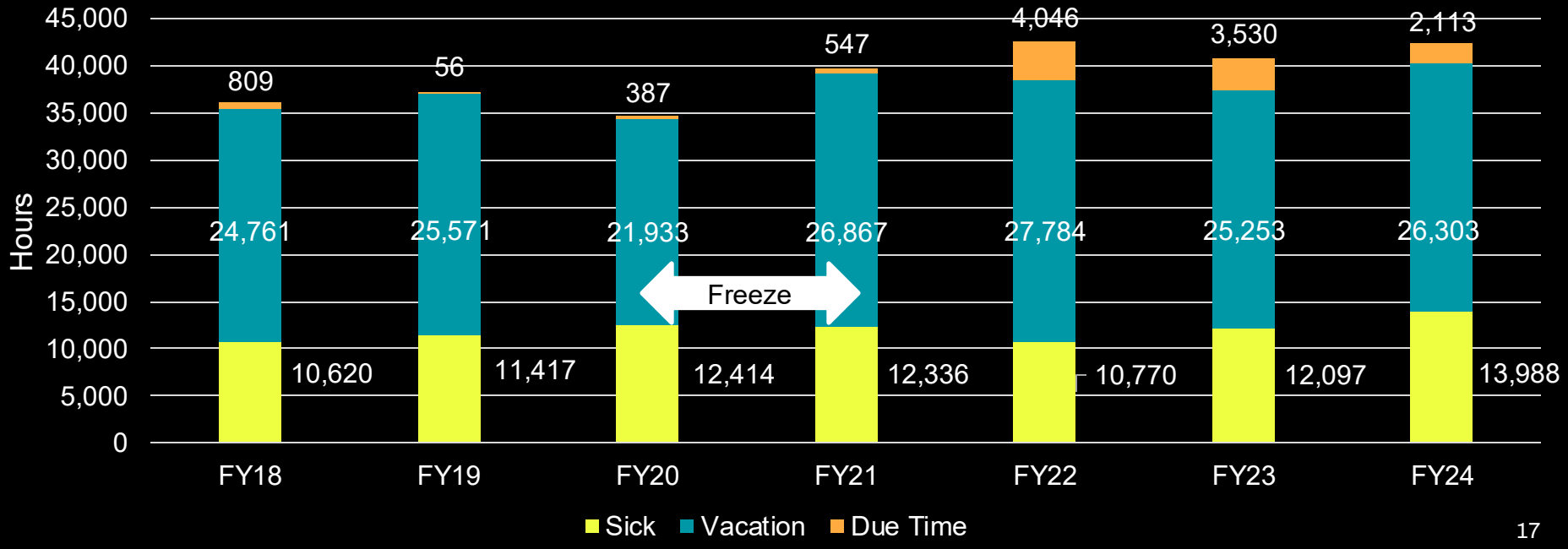


Driving Factors: Use of Benefited Leave Hours

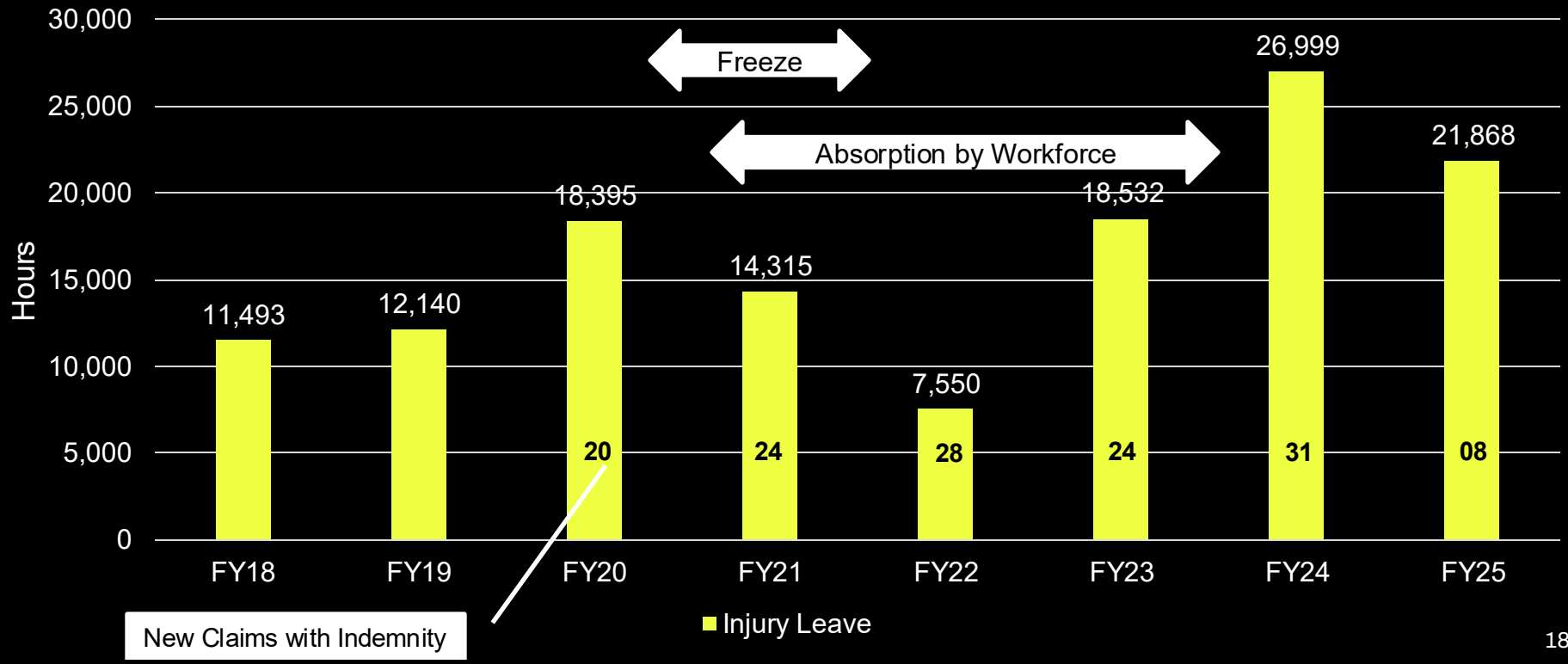
FY24: Sick Leave Up Slightly

Use of Vacation Has Been Stable

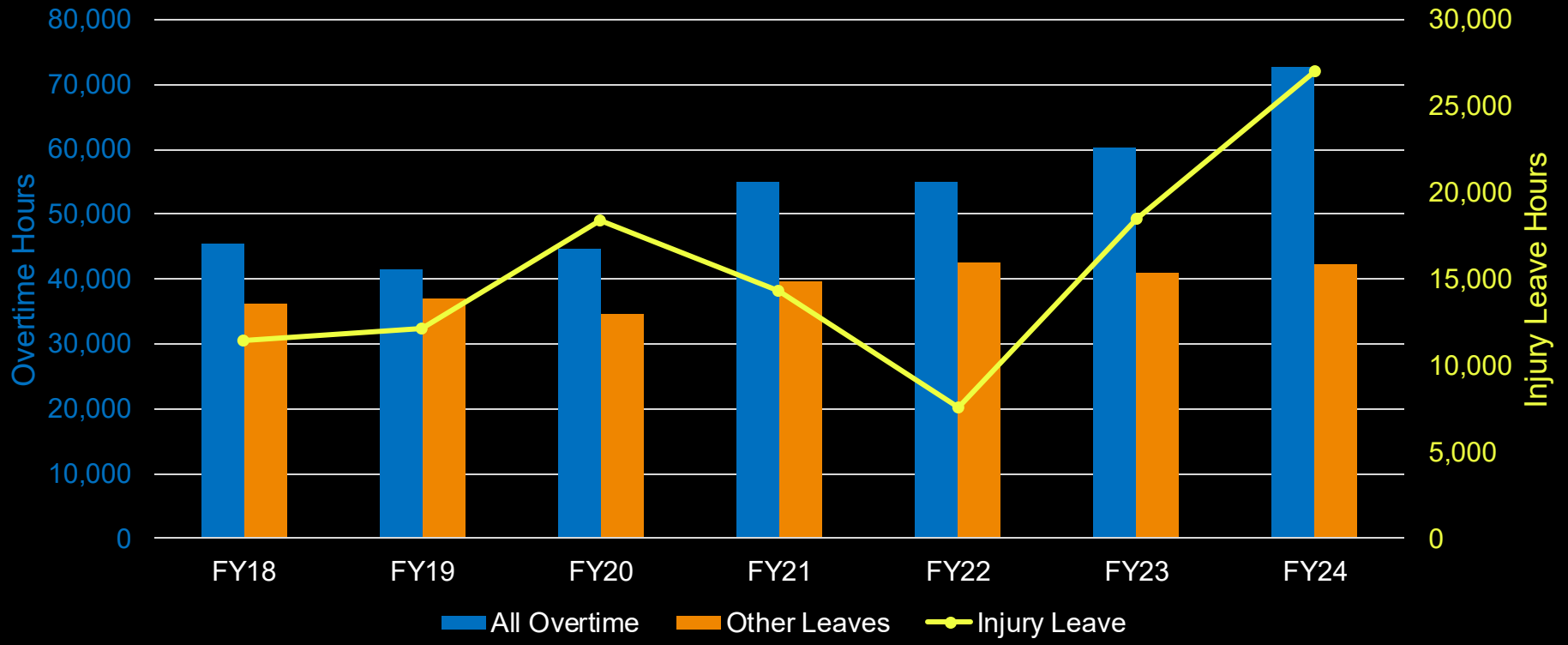
FY22-24: Due/Comp time used to incentivize people to work more



Driving Factors: # of employees on injury leave and duration of that leave has increased significantly starting in FY23

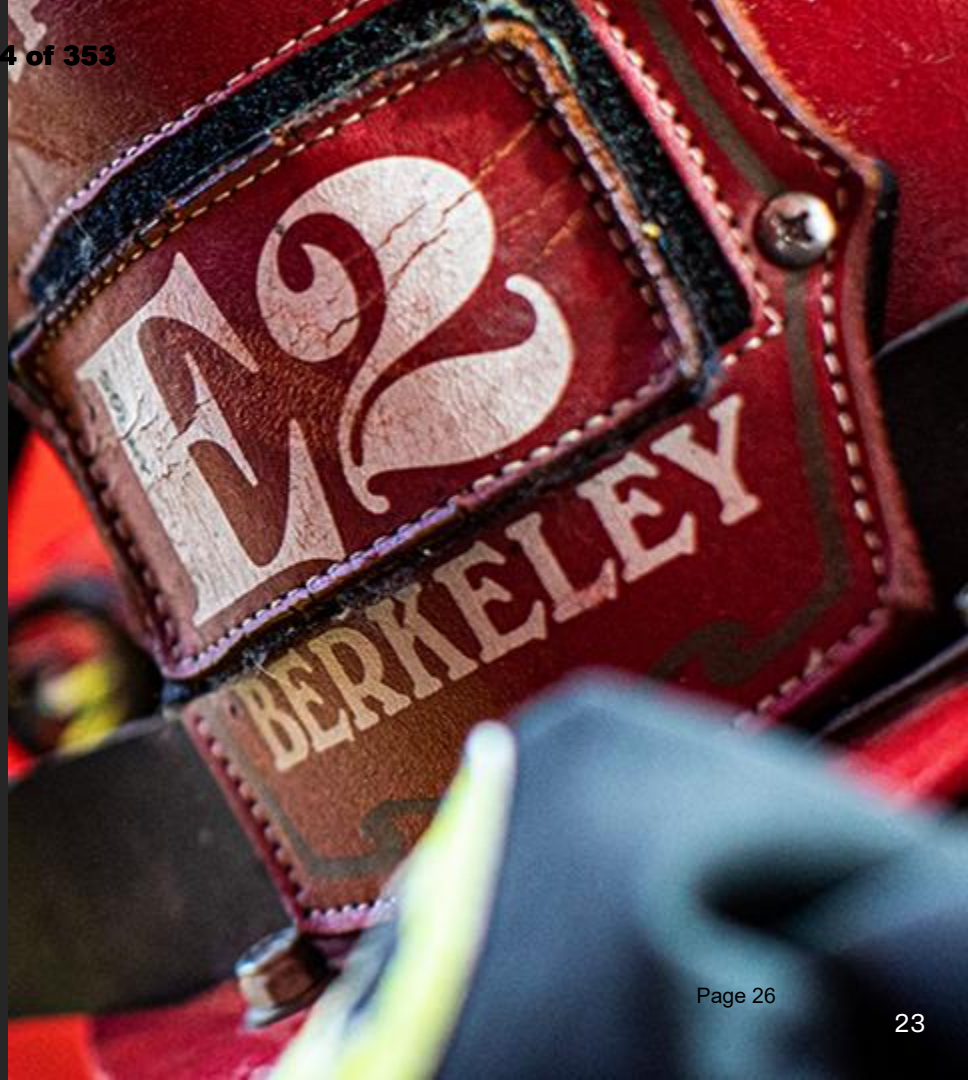


Correlation between increase in injury leave and OT



Current Strategies

1. Return to pre-pandemic staffing / vacancy rate - COMPLETE
2. Shifting some administrative personnel to Operations – IN PROCESS
3. Reduce number of employees on long-term injury leave:
    1. Employee wellness – IN PROCESS
    2. Program improvement – IN PROCESS
4. Employer of Choice Initiative: Continue to focus on retention – IN PROCESS
5. Annually adjust OT budgeted based on labor agreements – IN PROCESS



Questions

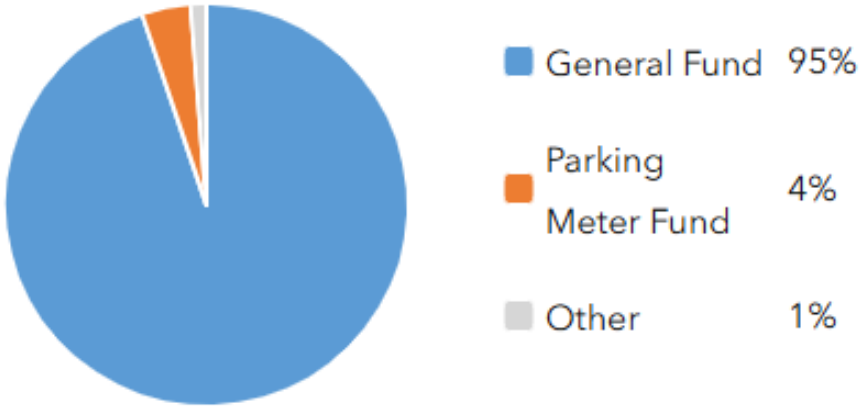
OVERTIME OVERVIEW

FISCAL YEAR 2025

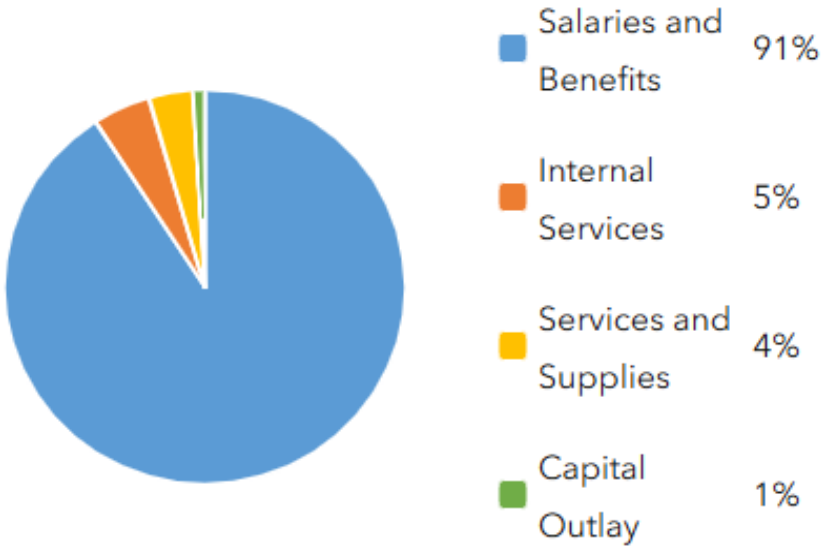
POLICE DEPARTMENT

91% of PD Budget is Salaries and Benefits

FY25 Operating Budget
Total: **$95M**

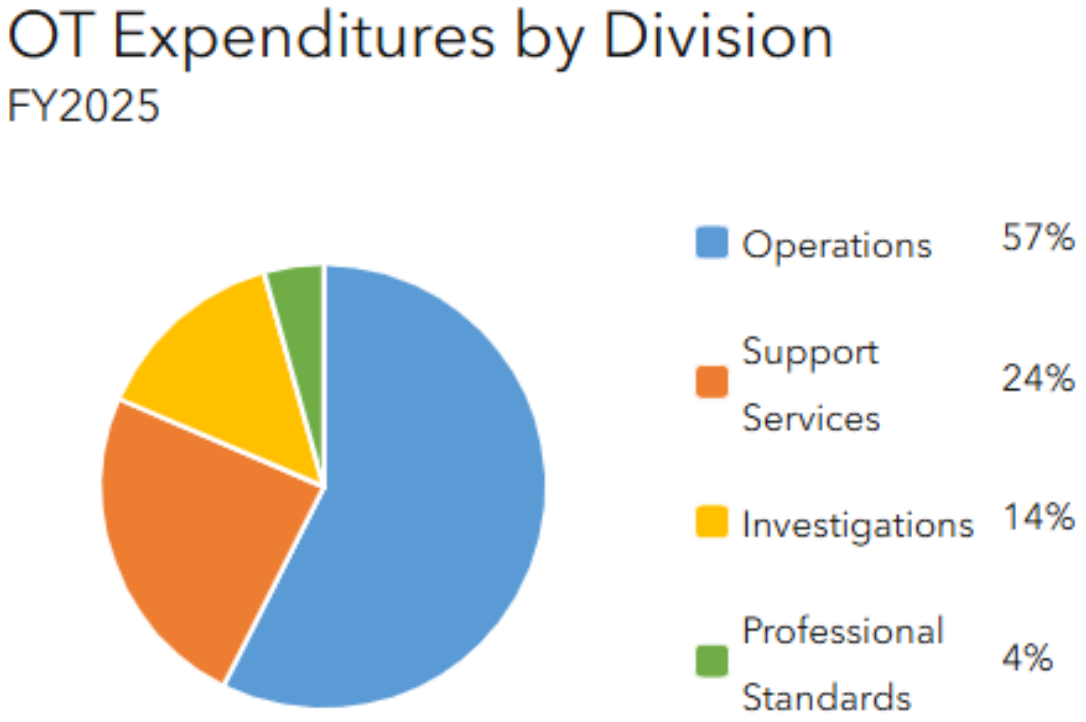


FY25 Expenditure Types
Total: **$95M**



Patrol and Dispatch Minimum Staffing Requirements Drive OT Use

- Operations (patrol) and Support Services (dispatch) together account for 81% of total overtime expenditures.
- Current 20% sworn and 50% dispatch vacancy rates lead the department to rely on overtime to meet minimum staffing and coverage needs.

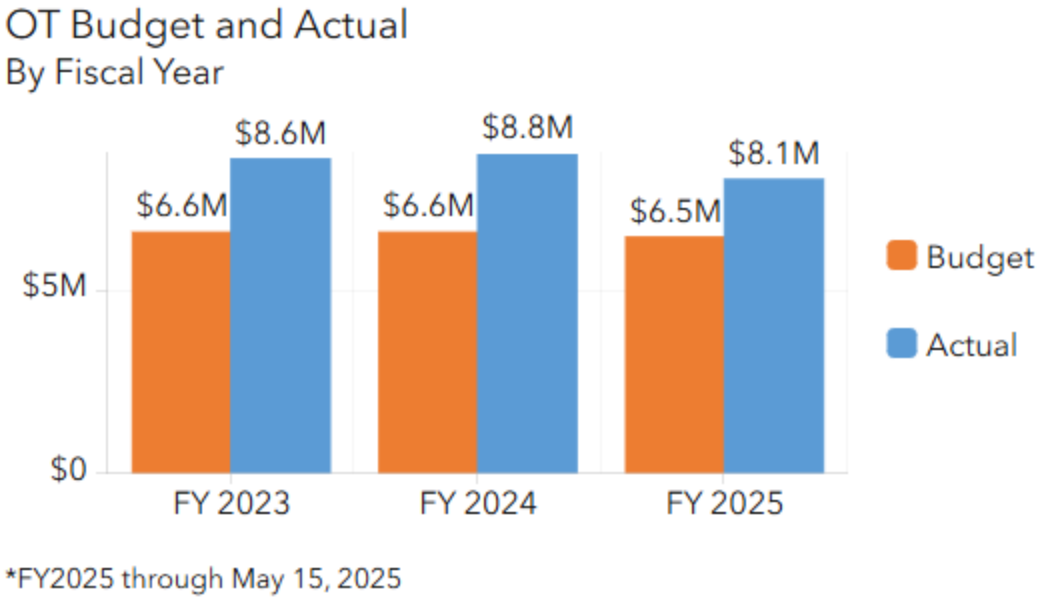


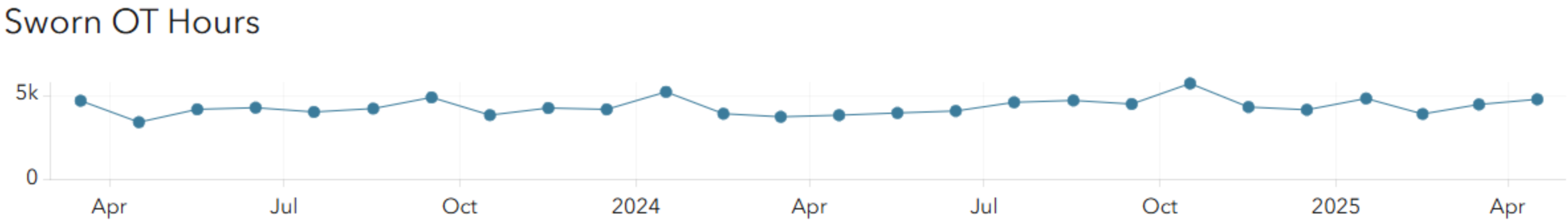
BPD Has Made Several Changes to Make OT Use More Efficient

- **Management**
  - New timesheet software facilitates tighter oversight of OT hours.
- **Resource Distribution**
  - Moving 16 to 14 patrol beats helped lower minimum staffing requirements.
- **Personnel**
  - The success of the new Patrol CSO program can lessen the need for OT.
- **Online Reporting**
  - A planned update to our CopLogic online reporting platform will facilitate faster service for certain types of crime reports.

Total OT Hours Worked are Stable

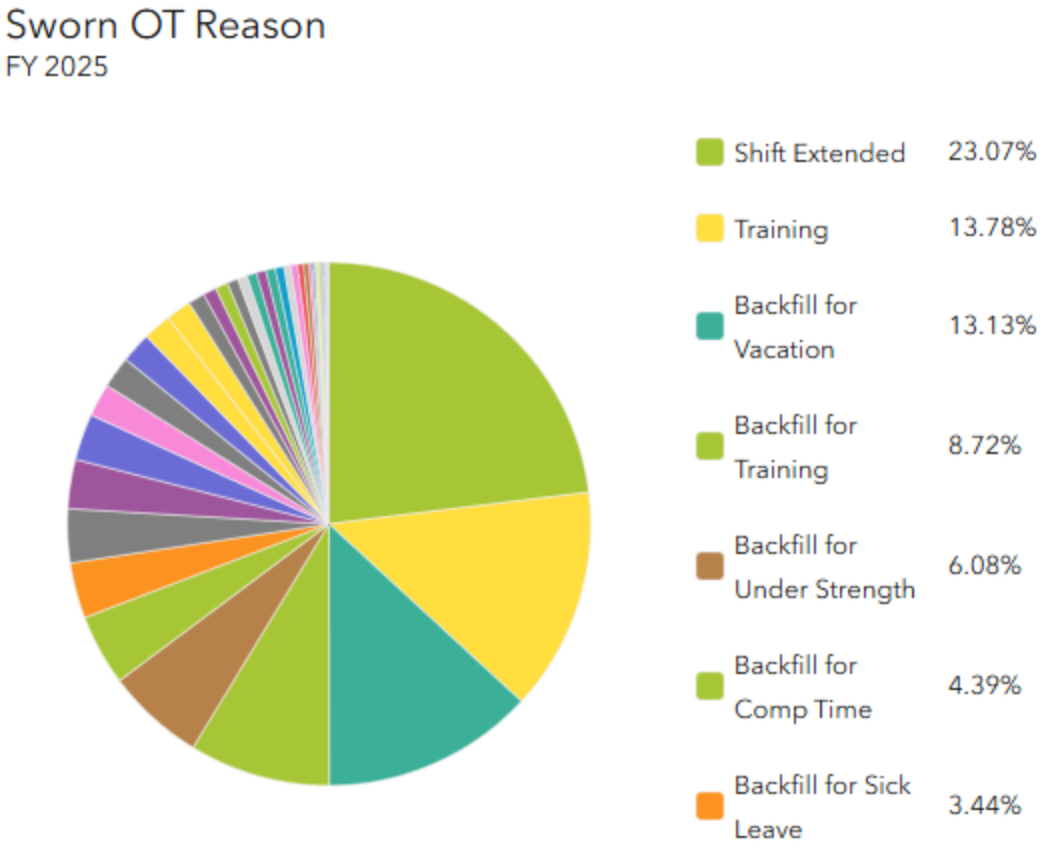
- Expenditures for FY 2025 are on track for ~$9.3M.
- This increase is due in part to negotiated COLAs.
- Monthly OT hours worked are stable.





40% of Overtime is to Meet Minimum Staffing

- In FY2025, 40% of OT hours are for "Backfill".
- Some additional percentage of Shift Extension OT would be mitigated by additional staffing.
- After Backfill, Training, and Shift Extensions, the remaining 23% of OT hours are to cover special events, critical incidents, court, and other miscellaneous obligations.

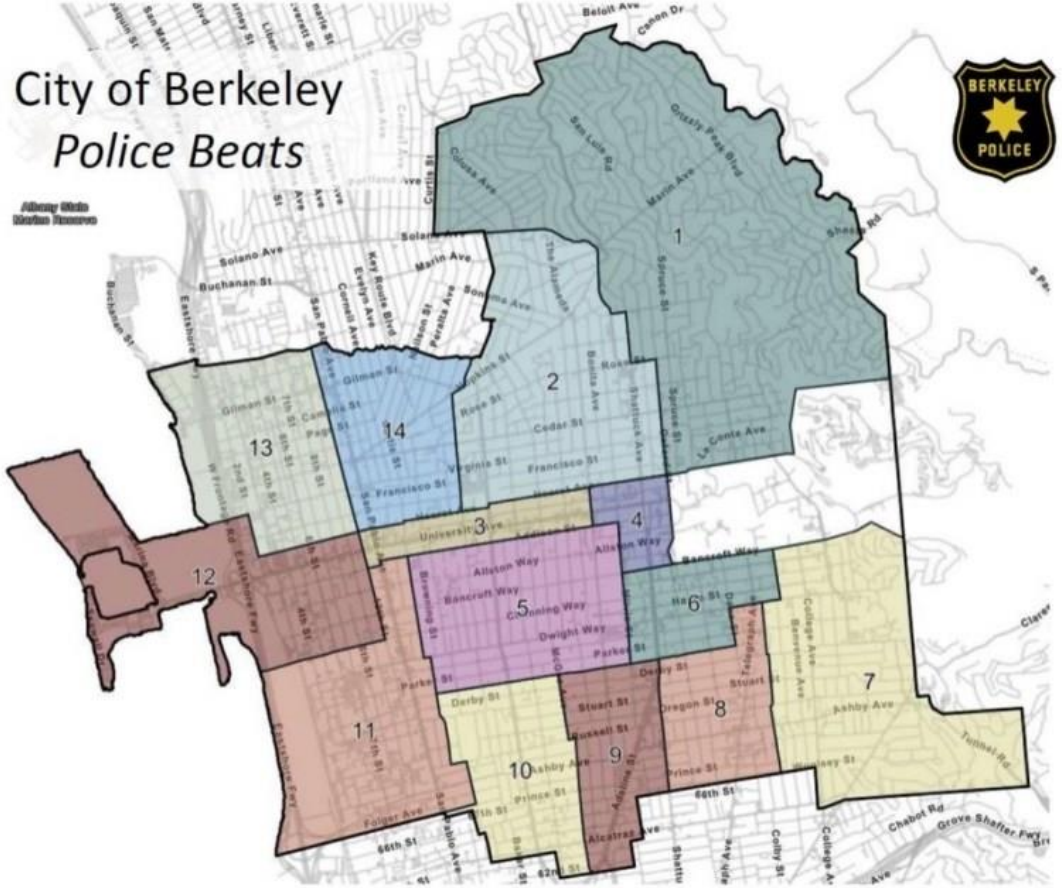


Minimum Patrol Staffing

- Patrol Minimum- a number agreed upon by the department and BPA that reflects the minimum needed to safely respond to high priority calls; the threshold below which we are required to sell overtime
  - 55 officers * 40 hours/week * 52 weeks
    - **114,400 officer hours**
  - At our current staffing levels, we start a timesheet with 60 officers assigned to patrol
    - Availability rate (training, injury, vacation, sick leave): 70%
      - 55 = .7x ; x = **79 officers scheduled to Patrol to avoid backfill OT**

Minimum Staffing vs. Full Staffing

- "Minimum Staffing" refers to the number of officers needed to respond to high priority calls for service.
- Current staffing levels have required vacancies in every division in the department.
- Additional staffing allows the department to pursue more proactive problem-solving strategies, higher solve rates, and deeper community engagement.



Q&A

Measure U1 Budget and Forecast

		FY 2025 Adopted	FY 2025 Projected	FY 2026 Adopted	FY 2026 Proposed	FY 2027 Estimate	FY 2028 Estimate	FY 2029 Estimate
	Revenues							
1	**Beginning Fund Balance**	**$7,399,686**	**$7,399,686**	**$7,722,569**	**$7,722,569**	**$569,285**	**$2,003,889**	**$3,365,224**
2	**Encumbrances and Commitments**				-$553,329			
3	**Total Adjusted Fund Balance**	**$7,399,686**	**$7,399,686**	**$7,722,569**	**$7,169,240**	**$569,285**	**$2,003,889**	**$3,365,224**
4	**ADD: Revenues (U1 transfer from General Fund)**	**$6,500,000**	**$6,500,000**	**$6,200,000**	**$6,500,000**	**$6,500,000**	**$6,500,000**	**$6,500,000**
5	**Total Revenues and Available Fund Balance**	**$13,899,686**	**$13,899,686**	**$13,922,569**	**$13,669,240**	**$7,069,285**	**$8,503,889**	**$9,865,224**
6	**Personnel Costs** [2]	*$1,939,337*	*$1,852,644*	*$1,395,615*	*$2,062,254*	*$1,465,396*	*$1,538,666*	*$1,615,599*
7	HHCS (Measure O/Housing Trust Fund, Staffing Study phase 1/2)	$738,392	$983,662	$760,999	$1,213,836	$799,049	$839,001	$880,951
8	HHCS Staffing Study Phase 2 [3]	$411,593		$411,593	$411,593	$432,173	$453,781	$476,470
9	HHCS Staffing Study Phase 3							
10	Empty Homes Tax Staffing Costs & Admin Costs [4]	$372,000	$624,975					
11	Finance (Rev Dev Position & Admin Costs)	$417,352	$244,007	$223,023	$436,825	$234,174	$245,883	$258,177
12	**Non-Personnel and Other Program Costs**	$4,203,331	$4,324,473	$3,729,330	$11,037,701	$3,600,000	$3,600,000	$3,600,000
	Small Sites/Community Land Trusts							
13	1638 Stuart/Small Sites loan (BACLT) -Contract # 31900285							
14	2321-2323 10th St./Small Sites loan (NCLT) -disbursed in escrow - Contract # 32100097-1							
15	2321-2323 10th St. loan (NCLT) - Contract # 32100097				$562,174			
16	California Street	$3,103,331	$3,103,331	$3,103,331				
17	1685 Solano / Small Sites (BACLT) pending request							
18	Small Sites Allocations (excludes project specific commitments)				$2,500,000			
19	Blake Apartments							
	Housing Trust Fund							
20	2001 Ashby predev (RCD) - Contract # 32000049							
21	2527 San Pablo Ave (SAHA) - Contract pending							
22	2012 Berkeley Way reserves (BRIDGE/BFHP) - Contract #32000250							
23	Housing Trust Fund Program [7]					$2,500,000	$2,500,000	$2,500,000
24	HTF Small Sites							
25	MLK House		$121,142		$1,879,846			
26	1740 San Pablo				$4,496,669			
27	Ephesians				$499,012			
28	Housing Trust Fund Program allocations (exludes project specific commitments)							
29	"transfer" (NEW) allocation to the HTF							
	Development of New Housing Programs							
30	Capacity Building for Emerging Developers	$200,000	$200,000		$200,000	$200,000	$200,000	$200,000
31	Berkeley Unified School District Planning Grant							
32	New Housing Programs/Land Trust/Coops							
33	Review and Develop a Social Housing policy (Councilmember Taplin, Mayor Arreguin, Councilmembers Harrison and Hahn)							
	Anti-Displacement							
34	Rent Board (EDC & EBCLC)	$550,000	$550,000	$550,000	$550,000	$550,000	$550,000	$550,000
35	East Bay Community Law Center (EBCLC)							
36	Housing Retention Program (EBCLC)							
37	Eviction Defense Center (EDC)	$250,000	$250,000		$250,000	$250,000	$250,000	$250,000

		FY 2025 Adopted	FY 2025 Projected	FY 2026 Adopted	FY 2026 Proposed	FY 2027 Estimate	FY 2028 Estimate	FY 2029 Estimate
38	Housing Retention Program / Eviction Defense							
39	Flexible Housing Subsidy Pool (BACS)	$100,000	$100,000	$75,999	$100,000	$100,000	$100,000	$100,000
	Additional City Priorities							
40	Berkeley Relief Fund							
41	Landlord Incentives for Section 8 Participation							
42	1001, 1011 University Ave. acquisition							
43	Project Homekey Reservation (Round 3)							
44	West Berkeley Shellmound/1900 Fourth Street acquisition							
45	Transfer to Housing Trust Fund per court order							
46	Encampment Resolution Fund 2 Grant Match- Insight Housing/Super 8 [5]							
47	Encampment Resolution Fund 3 Grant Match- Dorothy Day House/ Howard Johnson [6]							
48	**Total Expenditures**	**$6,142,668**	**$6,177,117**	**$5,124,945**	**$13,099,955**	**$5,065,396**	**$5,138,666**	**$5,215,599**
49	**Fiscal Year Surplus/Shortfall (Revenue minus Expenditures)**	$357,332	$322,883	$1,075,055	-$6,599,955	$1,434,604	$1,361,334	$1,284,401
50	**Ending Fund Balance**	**$7,757,018**	**$7,722,569**	**$8,797,624**	**$569,285**	**$2,003,889**	**$3,365,224**	**$4,649,625**

	For Department Tracking							
51	Encumberances and Commitments	-	-	-	(553,329)	-	-	-
52	**Adjusted Ending Fund Balance**	7,757,018	7,722,569	8,797,624	15,956	2,003,889	3,365,224	4,649,625

TRANSFER TAX -- MEASURE P FORECAST

		FY 2025 Adopted	FY 2025 Projected	FY 2026 Adopted	FY 2026 Proposed	FY 2027 Estimate	FY 2028 Estimate
1	**Beginning Fund Balance**	**$5,583,073**	**$5,583,073**	**$2,355,308**	**$5,086,743**	**$1,702,837**	**-$3,766,585**
2	**Measure P Revenues***	**$6,199,580**	**$9,105,870**	**$6,509,559**	**$9,100,000**	**$9,100,000**	**$9,100,000**
3	Total Revenues and Balance of Funds	$11,782,653	$14,688,943	$8,864,867	$14,186,743	$10,802,837	$5,333,415
4	LESS: Total Expenses	$9,427,345	$9,602,200	$13,102,873	$12,483,906	$14,569,422	$11,823,752
	Personnel Costs	**$780,206**	**$700,977**	**$842,623**	**$842,623**	**$581,392**	**$610,462**
5	CMO: Homeless Services Coordinator	$219,131	$399,086	$236,661	$418,916	$439,862	$461,855
6	Finance Accountant II	$208,916		$225,630			
7	HHCS: 50% Senior Management Analyst	$125,885	$129,502	$135,956	$134,791	$141,531	$148,607
8	HHCS: 2 Year Limited Term Community Services Specialist II	$226,274	$172,389	$244,376	$179,285		
	Program Expenses	**$8,647,139**	**$8,901,224**	**$12,260,250**	**$11,641,283**	**$13,988,030**	**$11,213,290**
9	Fire: 5150 Response & Transport	$814,302	$814,302	$814,302	$500,000	$400,000	
10	Dorothy Day House Shelter	$580,150	$580,150	$594,654	$580,150	$580,150	$580,150
11	Dorothy Day House Berkeley Emergency Storm Shelter (Winter Shelter)	$358,750	$358,750	$367,719	$358,750	$358,750	$358,750
12	Dorothy Day House - Beyond Horizon	$950,000	$950,000	$950,000	$950,000	$950,000	
13	Beyond Horizon Shelter Lease	$935,160	$935,160	$962,315	$962,315	$990,284	
14	Dorothy Day House University Horizon Community Village - Supportive Services					$650,967	$1,301,935
15	BACS Pathways STAIR Center	$2,002,768	$2,002,768	$2,002,768	$1,765,295	$2,002,768	$2,002,768
16	BACS Coordinated Entry System (BACS HRC & Shallow Subsidies)	$1,235,411	$1,235,411	$1,235,411	$1,235,411	$1,235,411	$1,235,411
17	No Place Like Home - Scattered Unit Supportive Services						$105,000
18	No Place Like Home - Scattered Unit Supportive Services					$138,800	$138,800

TRANSFER TAX -- MEASURE P FORECAST

		FY 2025 Adopted	FY 2025 Projected	FY 2026 Adopted	FY 2026 Proposed	FY 2027 Estimate	FY 2028 Estimate
19	LifeLong Medical - Maudelle Shirek Affordable Housing (NPLH)	$61,200	$61,200	$61,200	$61,200	$61,200	$61,200
20	LifeLong Medical Care - Berkeley Trust Clinic	$525,000	$525,000	$525,000	$525,000	$525,000	$525,000
21	DBA- Homeless Outreach Worker	$40,000	$40,000	$40,000	$40,000	$40,000	$40,000
22	Downtown Streets Team	$225,000	$225,000	$225,000	$225,000	$225,000	$225,000
23	BOSS/BOSS Step Up Housing Project - 1367 University Avenue*		$202,085	$1,066,027	$1,014,660	$1,039,408	$1,064,759
24	Training and Evaluation	$133,334	$133,334	$133,334	$133,334	$133,334	$133,334
25	Homeless Response Team	$690,064	$690,064	$690,064	$440,064	$690,064	$690,064
26	Homeless Response Team - RV Buy Back expansion				$250,000		
27	Portable Toilets	$96,000	$96,000	$96,000	$96,000	$96,000	$96,000
28	Insight Housing Campus Hotel - Supportive Services (ERF match)			$2,496,456	$1,456,627	$1,468,050	
29	Campus Hotel - Lease (ERF Match)				$1,047,477	$1,067,136	
30	Encampment Resolution Fund 3 Grant Match- Dorothy Day House/ Howard Johnson Contract					$635,638	$1,271,276
31	Howard Johnson Lease					$645,069	$1,328,843
32	Portable Toilets- Parks, Recreation and Waterfront		$52,000			$55,000	$55,000
33	*Fiscal Year Surplus (Shortfall)*	*-$3,227,765*	*-$496,330*	*-$6,593,314*	*-$3,383,906*	*-$5,469,422*	*-$2,723,752*
34	**Ending Fund Balance**	**$2,355,308**	**$5,086,743**	**-$4,238,006**	**$1,702,837**	**-$3,766,585**	**-$6,490,337**

Notes:
(1) Revenue projection does not reflect passage of Measure W that becomes effective on 1/1/27

FY26 Mid-Biennial Update
Budget Update

Budget and Finance Policy Committee

15 May 2025

AGENDA

1. Update Citywide All Funds Summary
2. General Fund Revenue Update
3. General Fund Expenditure Update
4. Recommendation on Vacant Positions
5. Measure U1 Draft Program Budget and Forecasts
6. General Fund Budget Balancing Options
7. Other Fiscal Challenges and Funding Needs
8. Recap of Questions
9. Next Steps and Timeline

FY26 BUDGET UPDATE STATUS

	2026 Adopted	2026 Update v8	Variance	% Inc/Dec
All FUNDS Revenue	698,663,103.87	738,756,191.19	40,093,087.32	5.74%
All FUNDS Expense	783,017,117.38	781,761,994.60	(1,255,122.78)	-0.16%
Delta	**(84,354,013.51)**	**(43,005,803.41)**	**41,348,210.10**	**-49.02%**
GF Revenue	284,047,716.05	291,583,351.00	7,535,634.95	2.65%
GF Expense	296,120,768.87	310,261,633.40	14,140,864.53	4.78%
Delta	**(12,073,052.82)**	**(18,678,282.40)**	**(6,605,229.58)**	**54.71%**
All FUNDS Personnel	390,853,568.41	422,800,699.58	31,947,131.17	8.17%
All FUNDS Non-Personnel	392,163,548.97	358,961,295.02	(33,202,253.95)	-8.47%
Total	**783,017,117.38**	**781,761,994.60**	**389,598,445.63**	**49.76%**
GF Personnel	192,772,862.79	211,187,216.64	20,371,428.33	10.57%
GF Non-Personnel	103,347,906.08	99,074,416.76	(4,573,489.32)	-4.43%
Total	**296,120,768.87**	**310,261,633.40**	**15,797,939.01**	**5.33%**

- All funds revenue increase with Measure FF (Streets). Special revenue taxes will increase by either CPI (1.3%) or Personal Income Growth (6.4%). However, overall revenues not keeping up with expenditures.

FY26 ALL FUNDS SUMMARY BY DEPARTMENT

	FY 2022 Actual	FY 2023 Actual	FY 2024 Actual	FY 2025 Adopted	FY 2026 Adopted	FY 2026 Update
Mayor and Council	3,334,706	3,943,449	4,203,792	5,929,940	5,975,686	7,936,134
City Auditor	2,691,656	2,711,752	3,157,444	3,759,532	3,838,168	3,934,495
Rent Stabilization Board	5,803,126	6,784,836	7,028,903	8,489,208	8,597,595	9,159,201
Police Accountability (a)	808,594	909,307	1,210,483	1,484,847	1,524,120	1,522,348
City Manager's Office	18,417,010	19,826,926	22,096,549	18,116,987	18,383,457	18,949,471
Berkeley Public Library	18,476,578	19,951,914	24,026,043	29,196,378	29,606,293	33,865,077
City Attorney	6,200,456	7,880,612	9,112,692	9,290,707	9,425,305	9,825,142
City Clerk	2,398,903	2,876,230	2,823,822	3,518,483	3,576,397	3,709,023
Finance	8,738,585	8,872,348	8,938,144	11,823,352	11,963,574	12,026,929
Human Resources	3,574,288	4,588,216	5,551,340	5,993,013	6,198,864	6,804,564
Information Technology	16,446,318	15,454,602	15,298,230	23,471,574	23,651,297	24,019,890
Health, HSG & Community Svc	91,780,017	102,059,650	108,295,302	137,886,421	138,029,239	99,812,900
Parks, Recreation & Waterfront	63,534,473	45,578,024	48,266,958	47,477,378	47,713,333	51,021,863
Planning & Development	22,433,636	24,148,382	26,533,191	33,307,721	33,268,672	34,631,009
Public Works	140,757,034	133,012,197	149,296,617	196,515,790	181,881,632	185,433,697
Police	82,753,749	89,672,154	90,716,174	91,311,450	94,797,598	106,237,136
Fire & Emergency Services	58,014,195	62,872,373	68,731,246	71,480,646	73,060,880	78,537,592
Non-Departmental (b)	126,738,115	119,779,636	133,946,419	94,266,290	91,525,011	94,335,523
Total All Funds	**672,901,439**	**670,922,608**	**729,233,350**	**793,319,717**	**783,017,121**	**781,761,995**

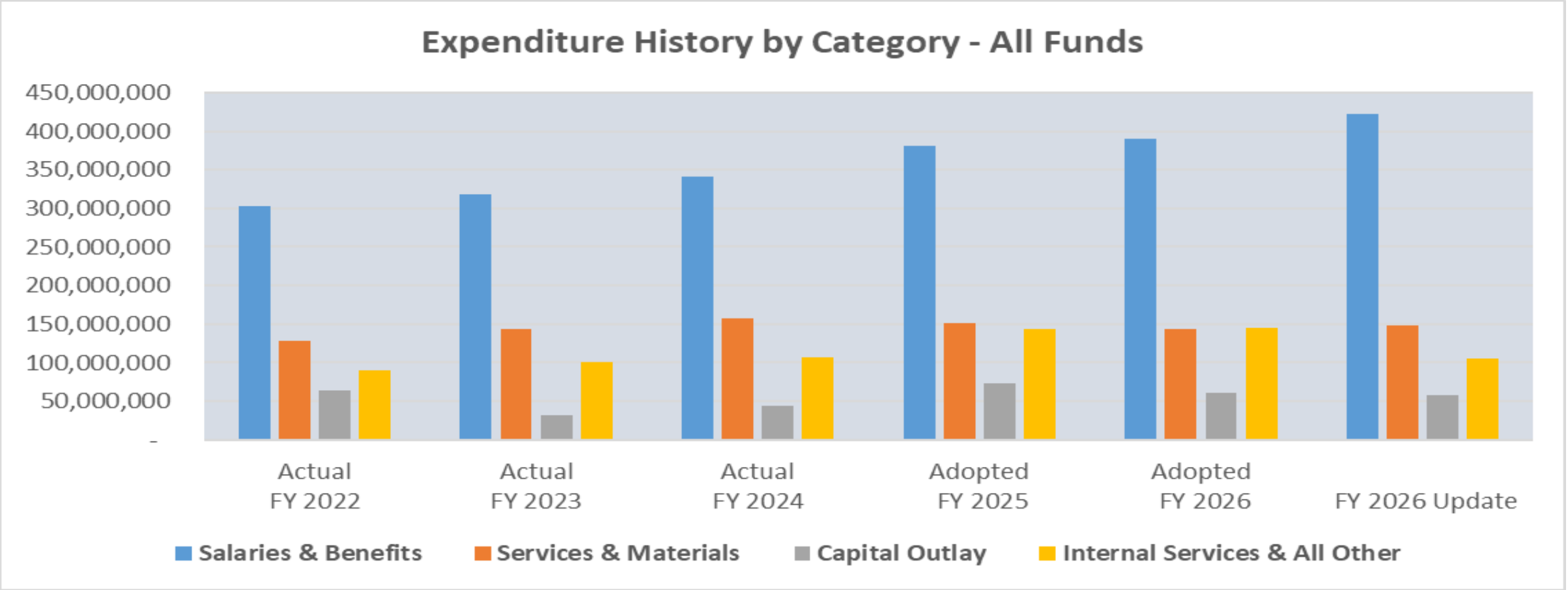
- Department expenditures reflect increases over FY26 Adopted primarily due to personnel costs.
- HHCS decrease due to timing of housing development projects.
- Citywide (all funds) expenditures decreased by $1.3M over the FY26 Adopted.

FY26 GENERAL FUND BY DEPARTMENT

	FY 2022 Actual	FY 2023 Actual	FY 2024 Actual	FY 2025 Adopted	FY 2026 Adopted	FY 2026 Update
Mayor and Council	3,334,706	3,939,049	4,203,792	5,929,940	5,975,686	7,936,134
City Auditor	2,627,178	2,633,227	3,078,425	3,657,880	3,734,615	3,891,057
Rent Stabilization Board	-	568,412	554,214	-	-	-
Police Accountability	808,594	909,307	1,210,483	1,484,847	1,524,120	1,522,348
City Manager's Office	12,034,751	13,385,432	15,438,698	14,352,200	14,591,829	15,383,455
City Attorney	2,648,008	3,701,943	5,332,589	5,612,249	5,662,267	6,065,046
City Clerk	2,231,818	2,550,697	2,114,865	2,867,551	2,918,529	3,044,270
Finance	6,827,434	7,075,971	7,188,353	9,302,267	9,415,265	9,544,384
Human Resources	2,052,893	2,971,640	3,819,103	3,928,242	4,073,809	4,696,613
Information Technology	1,446,933	882,432	1,077,796	1,580,760	1,580,760	1,580,760
Health, HSG & Community Svc	32,619,369	28,154,030	36,867,755	31,950,903	33,283,018	34,039,371
Parks, Recreation & Waterfront	8,757,651	9,693,628	12,640,006	9,625,120	9,719,820	10,345,805
Planning & Development	2,629,757	2,924,671	3,153,666	3,745,098	3,802,944	3,731,131
Public Works	6,859,822	7,066,623	7,100,535	7,046,369	7,209,627	7,545,711
Police	77,916,629	84,895,063	85,926,952	86,427,222	89,849,214	101,282,782
Fire & Emergency Services	43,406,934	40,874,529	48,392,171	47,108,481	48,628,122	49,810,350
Non-Departmental	43,112,577	52,800,630	69,050,828	50,930,926	54,151,147	49,842,415
Total	**249,315,054**	**265,027,284**	**307,150,230**	**285,550,055**	**296,120,772**	**310,261,633**

- Expenditures have been reduced to reflect recommended savings by not budgeting some vacant positions.

FY26 EXPENDITURES BY CATEGORY



- Personnel costs are the leading driver of growth in expenditures.

FY26 GENERAL FUND REVENUE

Revenue increase from $284.1M to $291.6M largely due to property related taxes

- Secured property tax **up** from $89.9M to $90.3M
- Supplemental Tax Revenue **down** from $3.4 million to $2.9 million
- Property Transfer Tax Revenue projection **up** from $19 million to $22.6 million
- Measure P Property Transfer Tax **up** from $6.2 million to $9.1 million
- UUT Revenue projection **up** from $17.7 million to $19.4 million
- TOT Revenue projection **down** from $7.7 million to $6.5 million
- Business license projection **up** from $23.8 million to $24 million
- Ambulance Fees projection **up** from $7.7 million to $8.16 million

BUDGET BALANCING STRATEGIES

FY26 Budget Balancing Options		
Revenue	$	291,583,351
Expenditures	$	310,261,633
Projected Surplus/(Deficit)	***$***	***(18,678,282)***
Adopted Budget Balancing Strategies		
Workers compensation holiday	$	(5,187,019)
Section 115 Trust for Pension	$	(3,000,000)
Revised Projected Surplus/(Deficit)	***$***	***(10,491,263)***
Other Budget Balancing Options Under Consideration		
Increase use of Section 115 Trust	$	(3,000,000)
IT Cost Allocation reduction	$	(6,164,889)
Small Sites Reallocation	$	(2,500,000)
Revised Projected Surplus/(Deficit)	**$**	**1,173,626**
Possible Marina Fund Support	*$*	*(1,300,000)*
Revised Projected Surplus/(Deficit)		**-126,374.14**

Includes changes in vacant positions budgeted

Marina Fund $1.3M request, Parking Meter Funds TBD

- These options help balance the budget using one-time strategies that are not sustainable in future years.
- There are tradeoffs associated with each of these options.
- There are additional funding needs across the organization that exceed the available projected surplus.

BUDGET BALANCING OPTION: WORKER COMPENSATION HOLIDAY

- The City is self-insured for worker compensation claims.
- All City funds contribute to the worker compensation fund.
- This approach means that the General Fund would not contribute to the fund for FY26.
- With FY25 holiday, expected to end FY 2025 with $35-36M in assets.
- City actuaries expect our discounted total outstanding liability to be $44.3M.
- 75% confidence in being able to cover liabilities (their minimum recommended level), they calculate that we have $49.6M in assets. 70% confidence level to be marginally acceptable, and for that level we would need $48.1M in assets.
- For FY26, a $5M transfer to General Fund (leaving a net contribution of around $6M to the Workers Comp Fund), plus $1M in earned interest, and paying out an estimated $8.4M in claims during FY 2026, we would have approximately $33.6M – $34.6M at 6/30/26. Our actuaries have not delivered a report giving our estimated liabilities with confidence levels for the end of FY 2026 but based on previous asset level, we will be less than 70% confidence level.

BUDGET BALANCING OPTION: SECTION 115 TRUST

- FY25 and FY26 included use of $3M of the pension trust each fiscal year
- Policy includes goal of contributing $5.5M each fiscal year.
- Balance of $26.4M as of 6/30/2024
- **Balancing option would increase the use of the Trust to $6M in FY26.**
- Use of Trust in the short-term balanced with future needs. $54.5 in 24-25 projected to $75.3M in 29-30

PLAN Citywide costs	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30
Fire	**$7,958,918**	$8,768,612	$9,415,000	$9,945,000	$11,093,000	**$11,370,000**
Police	**16,420,813**	17,867,757	18,906,000	19,796,000	21,479,000	**21,988,000**
Miscellaneous	**30,126,063**	31,865,338	34,561,000	36,579,000	40,959,000	**42,012,000**

Source: CalPERS actuarial valuation as of 6/30/23. Assumes 6.80% rate of return.

BUDGET BALANCING OPTION: IT COST ALLOCATION

- City funds contribute to the IT Costa Allocation Fund to pay for IT services
- This approach means that the General Fund would reduce its funding by 50% in FY26
- Core services will remain intact, but delays in project implementation
- IT should be able to weather the outcome through FY26 with enough fund balance to account for any unforeseen expenditures, such as significant infrastructure and/or application failures or a cyber-event
- Not sustainable to reduce amount more in FY26 due to fund balance level

BUDGET BALANCING OPTION: U1/SMALL SITES

- FY26 includes $2.5M allocation for Small Sites program in U1 budget

- Currently Measure P expenditures outpace revenue with a $3.4M shortfall
- This includes $2.5M in required match for the State Encampment Resolution grant

- The $2.5M from U1 could support ERF grant and General Fund deficit

- However, proposed U1 FY26 Revised Budget faces significant deficit
- Fund balance depleted in FY26

OTHER FISCAL NEEDS

- Other funds in needs of fiscal support like the Marina Fund, Parking Meter Funds
- Council budget referrals and departmental needs
- Contingency for federal funding uncertainty
- Contingency for economic uncertainty

TIMELINE

- Overview of the FY26 Budget at Council on May 20, 2025
- Budget and Finance Policy Committee on May 22, 2025
  - Fire and Police Discussion on Overtime
  - Measure P and U1 Discussion
- Budget and Finance Policy Committee on June 12, 2025
  - Parking Meter Discussion

Office of the City Manager

Date: May 5, 2025

To: City Council/Budget and Finance Policy Committee

From: Paul Buddenhagen, City Manager

Submitted by: Henry Oyekanmi, Finance Director

Subject: Revenue Projection Report for FY2025-2029

General Fund Revenue and Transfers Nine Months FY 2025 vs Nine Months FY 2024 Comparison

Revenue Categories	FY 2025					FY 2024				Comparision FY25 vs FY24	
	Adopted Budget	Adjusted Budget	Actual	Variance	% Received	Adopted	Actual	Variance	% Received	Amount	%
	(a)	(b)	(c)	d=(c) - (b)	(e) = (c)/(b)	(f)	(g)	h=(g) - (f)	(i) = (g)/(f)	(j) = (c) - (g)	(k) = (i)/(f)
Secured Property	$89,887,496	$89,887,496	$55,638,827	($34,248,669)	61.90%	$75,664,920	$53,314,028	($22,350,892)	70.46%	2,324,799	4.36%
Redemptions- Regular	1,018,153	1,018,153	844,536	(173,617)	82.95%	831,441	719,042	-112,399	86.48%	125,494	17.45%
Supplemental Taxes	3,400,000	3,400,000	727,555	(2,672,445)	21.40%	2,000,000	1,197,265	-802,735	59.86%	(469,710)	-39.23%
Unsecured Property Taxes	4,648,038	4,648,038	4,973,066	325,028	106.99%	3,516,000	4,648,038	1,132,038	132.20%	325,028	6.99%
Property Transfer Tax	19,000,000	19,000,000	16,166,344	(2,833,656)	85.09%	34,462,172	12,731,173	-21,730,999	36.94%	3,435,171	26.98%
Property Transfer Tax- Measure P (New December 21, 2018)	6,199,580	6,199,580	6,889,800	690,220	111.13%	14,073,750	3,471,279	-10,602,471	24.66%	3,418,521	98.48%
Sales Taxes	18,884,235	18,884,235	14,200,340	(4,683,895)	75.20%	19,016,546	14,062,877	-4,953,669	73.95%	137,463	0.98%
Soda Taxes	1,147,387	1,147,387	794,470	(352,917)	69.24%	990,210	840,162	-150,048	84.85%	(45,692)	-5.44%
Utility Users Taxes	17,700,000	17,700,000	14,355,777	(3,344,223)	81.11%	13,800,000	12,753,476	-1,046,524	92.42%	1,602,301	12.56%
Transient Occupancy Taxes	7,688,065	7,688,065	5,431,345	(2,256,720)	70.65%	5,000,000	5,957,066	957,066	119.14%	(525,721)	-8.83%
Less: TOT rebates owed (2)			(958,344)				(913,421)			(44,923)	4.92%
Short-term Rentals	1,400,000	1,400,000	1,046,198	(353,802)	74.73%	1,000,000	1,045,648	45,648	104.56%	550	0.05%
Business License Tax	23,664,000	23,664,000	22,145,994	(1,518,006)	93.59%	19,000,000	21,076,289	2,076,289	110.93%	1,069,705	5.08%
Recreational Cannabis	18,000	18,000	40,300	22,300	223.89%	1,400,000	93,121	-1,306,879	6.65%	(52,821)	-56.72%
U1 Revenues	6,500,000	6,500,000	6,237,608	(262,392)	95.96%	4,900,000	5,344,045	444,045	109.06%	893,563	16.72%
Other Taxes (excluding Redemptions- Regular) (3)	4,434,906	4,434,906	3,158,690	(1,276,216)	71.22%	1,800,000	2,286,865	486,865	127.05%	871,825	38.12%
Vehicle In-Lieu Taxes	18,851,257	18,851,257	9,500,999	(9,350,258)	50.40%	15,926,168	8,937,911	-6,988,257	56.12%	563,088	6.30%
Parking Fines- Regular Collections	5,800,000	5,800,000	4,525,061	(1,274,939)	78.02%	4,326,450	4,572,399	245,949	105.68%	(47,338)	-1.04%
Parking Fines- Booting Collections											
Moving Violations	132,600	132,600	118,432	(14,168)	89.32%	132,600	131,377	-1,223	99.08%	(12,945)	-9.85%
Ambulance Fees	7,734,813	7,734,813	6,025,125	(1,709,688)	77.90%	3,880,779	5,735,203	1,854,424	147.78%	289,922	5.06%
Interest Income	13,500,000	13,500,000	11,571,603	(1,928,397)	85.72%	6,000,000	10,145,073	4,145,073	169.08%	1,426,530	14.06%
Franchise Fees	1,822,528	1,822,528	395,608	(1,426,920)	21.71%	1,613,283	456,610	-1,156,673	28.30%	(61,002)	-13.36%
Other Revenue	8,468,797	8,468,797	6,842,761	(1,626,036)	80.80%	6,729,977	5,904,224	-825,753	87.73%	938,537	15.90%
IDC Reimbursement	7,031,624	7,031,624	4,792,742	(2,238,882)	68.16%	5,490,000	4,838,582	-651,418	88.13%	(45,840)	-0.95%
Transfers (4)	4,472,621	9,265,177	7,928,999	3,456,378	177.28%	17,096,148	6,068,943	-11,027,205	35.50%	1,860,056	30.65%
Total Revenue:	**$273,404,100**	**$278,196,656**	**$203,393,836**	**-$74,802,820**	**73.11%**	**$258,650,444**	**$185,417,275**	**-$73,233,169**	**71.69%**	**$17,976,561**	**9.70%**

Notes:

(1) This statement is presented on a budgetary basis (i.e., cash).
(2) Includes the amount of TOT rebates paid during the period
(3) Total Other Taxes excludes Redemptions-Regular
(4) Adjustments to adopted budget = Transfers from Section 115 Trust Fund of $3,000,000 + Transfer from Public Liability Fund for Monsanto's Settlement of $1,792,556

General Fund revenue and transfers increased $17,976,561 or 9.7%, from $185,417,275 in the nine months of FY 2024, to $203,393,836 for the same period in FY 2025.

Notable increases during the first three Quarters of FY 2025 were the following:

1. Secured Property Taxes	$ 2,324,799
2. Property Transfer Taxes	3,435,171
3. Measure P Property Transfer Taxes	3,418,521
4. Utility User Taxes	1,602,301
5. Business License Taxes	1,069,705
6. Vehicle In Lieu Taxes	563,088
7. Interest Income	1,426,530
8. Other Revenue	938,537
9. Transfers In	1,860,056

FY 2025 NINE MONTHS GENERAL FUND REVENUE DETAILS:

Secured Property Tax (+$2,324,799 more than FY 2024 Actual

During the nine months of FY 2025, Secured Property Tax revenues totaled $55,638,827, which was $2,324,799 or 4.36% more than the $53,314,028 received for the same period in FY 2024. This result was lower than the County's Certification of Assessed Valuation (received from the County in August 2024), which reflects growth of 6.39%. However, the shortfall was made up with the County payment made in April.

The FY 2025 Adopted Budget assumed a 5.937% increase for FY 2025, so actual Secured Property Taxes are expected to be $384,484 or .453% more than the Adopted Budget amount of $89,887,496.

The Secured Property Tax Revenue projection is being increased from $89,887,496 to $90,271,980

Supplemental Taxes (-$469,710 less than FY 2024 Actual)

During the nine months of FY 2025, Supplemental Taxes totaled $727,555, which was $469,710 or 39.2% less than the $1,197,265 received for the same period in FY 2024

The Supplemental Tax Revenue projection is being decreased from $3.4 million to $2.9 million.

Unsecured Property Tax (+325,028 more than FY 2024 Actual)

During the nine months of FY 2025, Unsecured Property Tax revenues totaled $4,973,066, which was $325,028 or 6.99% more than the amount of $4,648,038 received for the same period in FY 2024. This amount is greater than the County's Certification of Assessed Valuation growth of 4.84% for FY 2025.

Please note that Unsecured property taxes are payable once a year and due August 31st.

Property Transfer Tax (+$3,435,171 more than FY 2024 Actual)

*D*uring the nine months of FY 2025, Property Transfer Tax totaled $16,166,344, which was $3,435,171 or 27.0% more than the $12,731,173 received for the same period in FY 2024.

The primary reasons for the $1,861,060 increase in Property Transfer Tax were the following:

(1) The dollar value of property sales increased by $231.3 million or 27.2%, from $849.4 million in the nine months of FY 2024 to $1.080.7 billion during the same period of FY 2025, as illustrated in Table 1 below.
(2) There were nine property sales of $10 million or more, with total sales of $234.7 million in the nine months of FY 2025 compared to five property sales of $10 million or more, with total sales of $89.9 million in the nine months of FY 2024; and,
(3) The number of property sales transactions increased by 16 or 3.0% from 526 in the nine months of FY 2024 to 542 during the same period of FY 2025, as illustrated in the Table 2 below.

This increase resulted despite high mortgage rates and a decline in the money supply.

Table 1 - ***Property Sales in Million $***

	July	Aug	Sept	Oct	Nov	Dec	Total
FY 2025	$163.3	$111.0	$79.3	$167.5	$195.4	$78.1	$794.6
FY 2024	$129.2	$152.5	$99.9	$95.7	$95.8	$94.4	667.5
Change	34.1	-41.5	-20.6	71.8	99.6	-16.3	127.1
% Change	26.4%	-27.2%	-20.6%	75.0%	104.0%	-17.3%	19.0%

Table 1 - ***Property Sales in Million $***

	Jan	Feb	Mar	Total
FY 2025	126.2	48.8	111.1	$1,080.7
FY 2024	65.8	49.8	66.3	849.4
Change	60.4	-1.0	44.8	231.3
% Change	79.3%	-.8%	57.2%	27.2%

Table 2 - ***Number of Property Sales Transactions***

	July	Aug	Sept	Oct	Nov	Dec	Total
FY 2025	75	72	55	69	86	57	414
FY 2024	79	73	64	61	67	62	406
Change	-4	-1	-9	+8	+19	-5	+8
% Change	-.5.1%	-1.4%	-14.1%	+13.1%	+28.4%	-8.1%	**+2.0%**

Table 2 - ***Number of Property Sales Transactions***

	Jan	Feb	Mar	Total
FY 2025	54	30	44	542
FY 2024	41	34	45	526
Change	13	-4	-1	+16
% Change	31.7%	-11.8%	-2.2%	**+3.0%**

The Property Transfer Tax Revenue projection is being increased from $19 million to $22.6 million.

Measure P-Property Transfer Tax (+$3,418,521 more than FY 2024 Actual)

Measure P taxes totaling $6,889,800 was collected during the nine months of FY 2025, which was $3,418,521 or 98.5% more than the $3,471,279 collected during the same period of FY 2024. This increase resulted primarily from the following: (1) An increase of $288.2 million or 71.9% in the dollar value of property sales amount in the nine months of FY 2025 versus those in the nine months of FY 2024 as reflected in Table 3; (2) The number of property sales transactions increased by 70 or 63.1% during the first half of FY 2025, as illustrated in the Table 4 below; and,(3) There were nine property sales of $10 million or more, with total sales of $234.7 million in the nine months of FY 2025 compared to five property sales of $10 million or more, with total sales of $89.9 million in the nine months of FY 2024.

Table 3 - ***Property Sales $1.5 Million and Above In Million $***

	July	Aug	Sept	Oct	Nov	Dec	Total
FY 2025	$113.9	$55.9	$31.3	$123.5	$137.5	$33.3	$495.4
FY 2024	$62.8	$87.2	$48.5	$51.9	$33.6	$42.5	$326.5
Change	51.1	-31.3	-17.2	71.6	103.9	-9.2	168.9
% Change	81.4%	-35.9%	-35.5%	138.0%	309.2%	-21.6%	51.7%

Table 3 - ***Property Sales $1.5 Million and Above In Million $***

	Jan	Feb	Mar	Total
FY 2025	87.5	24.6	81.4	688.9
FY 2024	20.5	22.3	31.4	400.7
Change	67.0	2.3	50.0	288.2
% Change	326.8%	10.3%	159.2%	71.9%

Table 4 - *Property Transactions $1.5 Million and Above*

	July	Aug	Sept	Oct	Nov	Dec	Total
FY 2025	31	25	10	26	34	15	141
FY 2024	18	17	12	15	12	13	87
Change	+13	+8	-2	+11	+22	+2	+54
% Change	+72.2%	+47.1%	-18.2%	+73.3%	+183.3%	+15.4%	+62.1%

Table 4 - *Property Transactions $1.5 Million and Above*

	Jan	Feb	Mar	Total
FY 2025	16	7	17	181
FY 2024	3	8	13	111
Change	+13	-1	+4	+70
% Change	+433.3%	-12.5%	+30.8%	+63.1%

The Measure P Property Transfer Tax Revenue projection is being increased from $6.2 million to $9.1 million.

Sales Tax (+$137,463 more than FY 2024 Actual)

For the nine months of FY 2025, Sales Tax revenue totaled $14,200,340, which was $137,463 or .98% more than the $14,062,877 received for the same period in FY 2024. The City's Sales Tax Consultant has noticed a softening of sales in several categories since the Adopted Budget was passed and has revised revenue projections in the following categories:

Category	Adopted Budget	Revised Projection	Difference
General Retail	$ 4,238,366	$ 4,030,688	($ 207,678)
Food Products	5,560,276	5,735,139	174,863
Transportation	2,502,228	2,212,552	(289,676)
Construction	1,446,252	1,523,947	77,695
Business to Business	1,953,502	1,639,895	(313,607)
Miscellaneous	597,063	747,279	150,216
County Pool	3,728,930	4,014,965	286,035
State Pool	8,320	8,008	(312)
County Sharing	(1,011,769)	(995,624)	16,145
CDTFA Administration	(138,933)	(144,618)	(5,685)
Total	$18,884,235	$ 18,772,231	($112,004)

The City's sales tax consultant is currently working on new projections that will take into account, as best as possible, the impacts of recent changes to federal trade policy.

Utility Users Taxes (+$1,602,301 more than FY 2024 Actual)

Utility Users Tax revenue for the nine months of FY 2025 totaled $14,355,777, which was $1,602,301 or 12.6% more than the $12,753,476 received for the same period in FY 2024.

This increase of $1,602,301 resulted from increases/decreases in the following categories:

FY 2025 Actual Revenues Compared to FY 2024 Actual Revenues				
	FY2025	FY 2024	$ Change	% Change
Telephone	$ 661,004	$748,334	$ -87,330	-11.7%
Cable	690,098	718,974	- 28,876	-4.02%
Cellular	1,341,653	1,317,976	23,677	1.80%
Electric	8,847,919	7,502,489	1,345,430	17.9%
Gas	2,815,103	2,465,703	349,400	14.2%
Total	$14,355,777	$12,753,476	$1,602,301	15.98%

On top of significant increases in rates in 2022 and 2023, PG&E rate changes in 2024 were the following:

- On January 1, 2024, PG&E rates increased by about 13% across both generation and delivery.
- On March 1, 2024, PG&E increased delivery rates by 0.3%.
- On April 1, 2024, PG&E rates increased by 1.4%.
- Natural gas prices have also increased this year. On September 1, 2024, PG&E implemented an 8.3% increase in natural gas rates.

The primary reasons PG&E has given for the rate increases are as follows:

- Inflation, including increases in employee and management salaries
- Wildfire mitigation - investing in undergrounding electric lines to reduce the risk of wildfires
- Aging infrastructure that needs to be maintained and upgraded
- Unprecedented weather events
- Pay off debt from the California energy crisis.

Staff is increasing the UUT Revenue projection by $1.7 million, from $17.7 million to $19.4 million.

Transient Occupancy Tax (-$570,644 less than FY 2024 Actual)

The total net Transient Occupancy Tax (TOT) revenue reported for the nine months of FY 2025 totaled $4,473,001 (after deducting $958,344 in TOT rebates owed), which was $570,644 or 11.3% less than the $5,043,645 (after deducting $913,421 in TOT rebates owed) received for the same period in 2024.The decline was primarily attributable to the failure of one of the six largest hotels to pay TOT in any of the nine months and the failure of another one to pay TOT in the last two months of the period.

As a result, the TOT Revenue projection (after rebates are paid) is being decreased from $7.7 million to $6.5 million.

Short-Term Rentals (+$550 more than FY 2024 Actual)
Short-Term Rentals revenue for the nine months of FY 2025 totaled $1,046,198, which was $550 or .05% more than the $1,045,648 received for the same period in FY 2024.

Business License Taxes (+$1,069,705 more than FY 2024 Actual)
Business license Taxes (BLT) revenue for the nine months of FY 2025 totaled $22,145,994, which was $1,069,705 or 5.1% more than the $21,076,289 received for the same period in FY 2024.

The $1,069,705 increase primarily resulted from a 14.4% increase in Rental of real property from $14,744, 916 in the nine months of FY 2024 to $16,566,946 for the same period in FY 2025; and an increase of 14.0% in Professional/Semi-professional from 5,696,580 in the nine months of FY 2024 to $6,493,817 for the same period in FY 2025.These increases were offset by declines in other revenue categories such as retail trade, which declined by $148, 266 or 8%.In addition, in FY 2025, there were more overall license renewals, but the average business license tax went down from $1,121 in FY 2024 to $775 in FY 2025.
As a result of the overall trend through nine months in FY 2025, the BLT Revenue projection is being increased from $23.8 million to $24 million.

U1 Revenues (+$893,563 more than FY 2024 Actual)
U1 revenues for the nine months of FY 2025 totaled $6,237,608, which was $893,563 or 16.7% more than the $5,344,045 received for the same period in FY 2024.

Other Taxes (+$871,825 more than FY 2024 Actual)
Other Taxes (excluding Redemptions-Regular) for the nine months of FY 2025 totaled $3,158,690 which was $871,825 or 38.1% more than the $2,286,865 received for the same period in FY 2024. The primary reason for the increase was Transportation Network Company User Tax (TNC User Tax) totaling $759,376 were incorrectly recorded as Other Revenue, instead of Other Taxes in FY 2024. In FY 2025, a total of $839,614 in TNC User Taxes was recorded as Other Taxes.

Vehicle In Lieu Taxes (+$563,088 more than FY 2024 Actual)
Vehicle in Lieu Taxes (VLF) for the nine months of FY 2025 totaled $9,500,999, which was $563,088 or 6.30% more than the $8,937,911 received for the same period in FY 2024. This result was consistent with the County's Certification of Assessed Valuation (received in August 2024), which reflects growth of 6.39%. Changes in VLF revenues are based on the growth in assessed values. However, the Adopted Budget reflects growth of 5.50%, so actual Vehicle In Lieu Taxes are expected to be $159,030 or .89% more than the Adopted Budget amount of $18,851,257.

The FY 2025 Vehicle In Lieu Tax projection is being increased from $18,851,257 to $19,010,287.

Parking Fines (-$47,338 less than FY 2024 Actual)
Parking Fines revenue for the nine months of FY 2025 totaled $4,525,061, which was $47,338 or 1.04% less than the $4,572,399 received for the same period in FY 2024.

For the nine months of FY 2025, ticket writing increased by 13,025 or 11.7% from 111,402 in the nine months of FY 2024 to 124,427 in the same period in FY 2025, as follows:

	July	Aug	Sept	Oct	Nov	Dec	Subtotal
FY 2025	14,221	15,033	14,744	14,872	13,308	14,790	86,968
FY 2024	12,623	14,122	13,099	13,087	12,425	11,662	77,018
Difference	1,598	911	1,645	1,785	883	3,128	9,950
% Difference	12.7%	6.5%	12.6%	13.6%	7.11%	26.8%	12.9%

	Jan	Feb	Mar	Total
FY 2025	10,827	12,830	13,802	124,427
FY 2024	10,990	11,407	11,987	111,402
Difference	-163	1,423	1,815	13,025
% Difference	-1.48%	12.5%	15.1%	11.7%

Despite the 11.7% increase in ticket writing during the nine months of FY 2025, revenue declined $47,338 or 1.04%. Staff believes the decline was attributable to changes in how parking fines are allowed to be collected in California. For example, towing and removal of vehicles for non-payment of parking citations is no longer allowed in California. Staff is seeing vehicles that have thousands of dollars in delinquent parking citations that customers are not paying.

As a result, the FY 2025 Parking Fines projection is being increased from $5.8 million to $5.9 million.

Ambulance Fees *(+$289,922 more than FY 2024 Actual)*
Ambulance Fees revenue for the nine months of FY 2025 totaled $6,025,125, which was $289,922 or 5.1% more than the $5,735,203 received for the same period in FY 2024. Transports for the nine months of FY 2025 were flat increasing by 19, from 4,840 in the nine months of FY 2024 to 4,860 in the nine months of FY 2025. Therefore, the $289,922 increase for the period was due to increases in the following Ambulance Fee rates:

CHARGE	FY 2025 Rates	FY 2024 Rates	Difference	% Difference
ALS 1	$4,551.06	$3,664.87	$886.19	24.18%
ALS 2	4551.06	3664.87	886.19	24.18%
Assessment at Scene	812.46	735.01	77.45	10.54%
BLSE 1	4551.06	3664.87	886.19	24.18%
MILE 1	91.41	82.69	8.72	10.55%
Oxygen	302.64	273.79	28.85	10.54%

As a result, the FY 2025 Ambulance Fees projection is being increased from $7.7 million to $8.16 million.

Interest Income (+$1,426,530 more than FY 2024 Actual)

For the nine months of FY 2025, Interest Income totaled $11,571,603, which was $1,426,530 or 14.1% more than the total of $10,145,073 received for the same period in FY 2024.This increase was primarily attributable to a slight increase in the net interest rate earned by the City in the first half of FY 2025 from a range of 2.84% - 3.10% during the first half of FY 2024, to a range of 2.93% - 3.32% during the first half of FY 2025. The rates for the third quarter of FY 2025 were slightly lower than those of FY 2024 as follows:

Monthly Net Interest Rate Earned:

FY	July	Aug	Sept	Oct	Nov	Dec
2025	3.32%	3.18%	3.04%	3.05%	2.93%	3.05%
2024	3.10%	3.02%	2.95%	2.95%	2.88%	2.84%

FY	Jan	Feb	Mar
2025	2.98%	2.92%	3.00%
2024	3.18%	3.05%	3.11%

Other Revenues (+$938,537 more than FY 2024 Actual)

Other Revenues primarily consists of licenses and permits, grants, preferential parking fees, general government charges for services, public safety charges for services, health charges for services, culture and recreation charges for services, rents and royalties, and other miscellaneous revenues that are not considered major.

Other Revenues for the nine months of FY 2025 totaled $6,842,761 which was $938,537 or 15.9% more than the $5,904,224 received for the same period in FY 2024. This increase of $938,537 was primarily attributable to (1) An increase of $145,725 in the Peer-to-Peer Car Sharing Permit, and (2) an increase of $544,139 in Mutual Aid Reimbursements in the nine months of FY 2025.

In addition, a premium received on the FY 2025 TRAN of $702,591 was recorded as revenue in FY 2025. The premium paid to the City was not actually revenue, it was a liability that was paid by the purchaser of the City's Notes when the coupon interest rate was higher than the market rate at the time the Notes were issued. It will be used to offset the interest expense paid by the City on the Notes, rather than be recorded as revenue.

Staff did not increase the FY 2025 Other Revenues projection because it includes $702,591 in TRAN premium that will be reclassified as a credit to Interest Expense, and the FY 2024 total includes TNC User Taxes totaling $759,376, which makes the FY 2025 increase larger than it actually was.

Indirect Cost Reimbursements (-$45,840 less than FY 2024 Actual)

IDC Reimbursement (IDC) decreases result from decreases in the indirect cost allocation base (i.e., total direct salaries and wages in the fund), a decrease in the indirect cost rate or a combination of decreases or increases in both factors. IDC for the nine months of FY 2025 totaled $4,792,742, which was $45,840 or .95% less than the $4,838,582 received for the same period in FY 2024. The decline was primarily accounted for by a decrease in IDC rates from 21% in FY 2024 to an average of 19.76% in FY 2025. The net decrease resulting from these changes in rates were partially offset by an increase of $2,913,690 or 13.7% in the indirect cost allocation base (total direct salaries and wages) from $21,234,357 in the nine months of FY 2024 to $24,148,047 for the same period in FY 2025, creating a net decline of $45,840 or .95% in total IDC.

Staff is lowering the FY 2025 Indirect Cost Reimbursement projection from $7.0 million to $6.9 million.

Transfers (+$1,860,056 more than FY 2024 Actual)

Transfers from other funds for the nine months of FY 2025 totaled $7,928,999 which was $1,860,056 or 30.6% more than the $6,068,943 received for the same period in FY 2024. This was primarily attributable to the Transfer of $2,441,808 from the American Rescue Plan Fund (ARPA) to recover from the impact of the COVID-19 pandemic in FY 2024, compared to no ARPA Transfers in FY 2025; and, a decline in the Parking Meter Fund transfers of $625,000, from $1,306,716 in FY 2024 to $781,716 in FY 2025. These declines were offset by a $1,792,557 one-time Monsanto lawsuit settlement and a transfer of $3,000,000 from the Section 115 Trust Fund to pay pension benefits.

5 YEARS PROJECTED GENERAL FUND REVENUES

	FY 2024 Actual	FY 2025 Adopted	FY 2025 Adjusted	FY 2025 Revised	FY 2026	FY 2027	FY 2028	FY 2029
Undesignated Revenues								
Secured Property Taxes	84,850,061	89,887,496	89,887,496	90,271,980	95,236,939	98,570,232	102,020,190	105,590,897
Supplemental Taxes	2,842,273	3,400,000	3,400,000	2,900,000	2,900,000	2,900,000	2,900,000	2,900,000
Unsecured Property Taxes	4,506,444	4,648,038	4,648,038	4,973,066	4,973,066	4,973,066	4,973,066	4,973,066
Property Transfer Taxes	16,000,000	16,000,000	16,000,000	16,000,000	16,000,000	16,000,000	16,000,000	16,000,000
Property Transfer Tax - Measure P	6,272,861	6,199,580	6,199,580	9,105,870	9,100,000	9,100,000	9,100,000	9,100,000
Sales Taxes	18,717,040	18,884,235	18,884,235	18,884,235	19,106,713	19,285,518	19,624,815	19,935,457
Soda Tax	1,101,210	1,147,387	1,147,387	1,147,387	1,147,387	1,147,387	1,147,387	1,147,387
Utility Users Taxes	17,209,441	17,700,000	17,700,000	19,396,728	19,396,728	19,396,728	19,396,728	19,396,728
Transient Occupancy Taxes(TOT)	8,224,852	7,688,065	7,688,065	7,660,450	7,660,450	7,660,450	7,660,450	7,660,450
TOT Rebates	-1,245,529			-1,160,450	-1,160,450	-1,160,450	-1,160,450	-1,160,450
Short-term Rentals	1,475,544	1,400,000	1,400,000	1,400,000	1,400,000	1,400,000	1,400,000	1,400,000
Business License Taxes	23,754,846	23,664,000	23,664,000	24,000,000	24,480,000	24,969,600	25,468,992	25,978,372
Recreational Cannabis	152,834	18,000	18,000	18,000	18,000	18,360	18,727	19,102
Measure U1	6,322,118	6,500,000	6,500,000	6,500,000	6,500,000	6,500,000	6,500,000	6,500,000
Vacancy Tax					3,500,000	3,750,000	3,750,000	3,862,500
Other Taxes*	5,303,777	5,453,059	5,453,059	5,453,059	5,453,059	5,453,059	5,453,059	5,453,059
Vehicle In Lieu Taxes	17,875,821	18,851,257	18,851,257	19,010,287	20,055,853	20,757,808	21,484,331	22,236,282
Parking Fines - Regular Collections	6,034,002	5,800,000	5,800,000	5,900,000	5,900,000	5,900,000	5,900,000	5,900,000
Moving Violations	166,152	132,600	132,600	132,600	132,600	135,252	137,957	137,957
Ambulance Fees	7,910,668	7,734,813	7,734,813	8,158,939	8,900,000	8,900,000	8,900,000	8,900,000
Interest Income	15,155,999	13,500,000	13,500,000	13,500,000	14,000,000	14,500,000	14,500,000	14,500,000
Franchise Fees	2,008,162	1,822,528	1,822,528	1,822,528	1,822,528	1,822,528	1,822,528	1,822,528
Other Revenues	6,821,501	8,468,797	8,468,797	8,000,000	8,000,000	8,000,000	8,000,000	8,000,000
Indirect cost reimbursements	6,720,690	7,031,624	7,031,624	6,931,624	7,070,256	7,211,662	7,355,895	7,503,013
Transfers	13,591,924	4,472,621	9,265,177	8,974,480	3,990,222	3,990,222	3,990,222	3,990,222
Total Undesignated Revenues	271,772,691	270,404,100	$275,196,656	278,980,783	285,583,351	291,181,421	296,343,897	301,746,569
Designated Revenues								
Prop. Transfer Taxes for capital improvements	1,528,223	3,000,000	$ 3,000,000.00	6,583,402	6,000,000	6,000,000	6,000,000	6,000,000
Total Designated Revenues	1,528,223	3,000,000	$ 3,000,000.00	6,583,402	6,000,000	6,000,000	6,000,000	6,000,000
TOTAL REVENUES AND TRANSFERS	$ 273,300,914	$ 273,404,100	$ 278,196,656	$ 285,564,185	$ 291,583,351	$ 297,181,421	$ 302,343,897	$ 307,746,569

(1) This statement is presented on a budgetary basis (i.e., cash).
(2) Total Other Taxes excludes Redemptions-Regular
(4) Adjustments to adopted budget = Transfers from Section 115 Trust Fund of $3,000,000 + Transfer from Public Liability Fund for Monsanto's Settlement of $1,792,556

Notes to Multi-Year General Fund Revenue Projections Based on Nine Months FY 2025 Actual

Secured Property Taxes

During the nine months of FY 2025, Secured Property Tax revenues totaled $55,638,827, which was $2,324,799 or 4.36% more than the $53,314,028 received for the same period in FY 2024. This result was less than the County's Certification of Assessed Valuation (received from the County in August 2024), which reflects growth of 6.39%. However, the shortfall was made up with the County payment in April.

Staff projects Secured Property Tax growth of 6.39% in FY 2025; 5.5% in FY 2026 and 3.5% for FY 2027 through FY 2029.

Property Transfer Tax

Given the dramatic slowdown in the real estate market in FY 2023 and FY 2024, the high interest rates (including mortgage rates that exceeded 8% at one point, but have receded to slightly under 7%), and high inflation slowing down consumer spending, staff expected a mild recovery in property sales activity and increases in property values in FY 2025.

Over the 5 years prior to the pandemic, transfer tax revenues grew 6% per year on average, but the high level of mortgage rates and tighter credit standards have made buyers and sellers reluctant to be involved in real estate transactions; this will continue to negatively impact sales prices and volumes somewhat in the next few years.

After the sharp decline in FY 2023 (46.7%) and FY 2024 (23.4%) growth in Property Transfer Tax revenue, Staff expected revenue growth of 8.4% in FY 2025, but the results exceeded expectation and is projected to increase by 24.2% from the FY 2024 results.

During the nine months of FY 2025, Property Transfer Tax totaled $16,166,344, which was $3,435,171 or 27.0% more than the $12,731,173 received for the same period in FY 2024.

The primary reasons for the $3,435,171 increase in Property Transfer Tax were the following:

(4) The dollar value of property sales increased by $231.3 million or 27.2%, from $849.4 million in the nine months of FY 2024 to $1.080.7 billion during the same period of FY 2025.

(5) There were nine property sales of $10 million or more, with total sales of $234.7 million in the nine months of FY 2025 compared to five property sales of $10 million or more, with total sales of $89.9 million in the nine months of FY 2024; and,

(6) The number of property sales transactions increased by 16 or 3.0% from 526 in the nine months of FY 2024 to 542 during the same period of FY 2025.

Because of the difficulty in projecting this revenue source in normal times, Staff is projecting an increase of 28.8% in FY 2025 (Including two transactions totaling in excess of $800,000 in April 2025) and flat revenue from FY 2026 through FY 2029 due to the high uncertainty about the impact of the Trump Administration's trade policy will have on consumer spending, interest rates and the economy.

Measure P Taxes

Measure P taxes totaling $6,889,800 was collected during the nine months of FY 2025, which was $3,418,521 or 98.5% more than the $3,471,279 collected during the same period of FY 2024. This increase resulted primarily from the following: (1) An increase of $288.2

million or 71.9% in the dollar value of property sales amount in the nine months of FY 2025 versus those in the nine months of FY 2024; (2) The number of property sales transactions increased by 70 or 63.1% during the nine months of FY 2025; and,(3) There were nine property sales of $10 million or more, with total sales of $234.7 million in the nine months of FY 2025 compared to five property sales of $10 million or more, with total sales of $89.9 million in the nine months of FY 2024.

Because of the difficulty in projecting this revenue source in normal times, Staff is projecting an increase of 45.2% in FY 2025 and flat revenue in FY 2026 through FY 2029 due to the high uncertainty about the impact the Trump Administration's trade policy will have on consumer spending, interest rates and the economy.

Sales Taxes
After getting back to pre-pandemic levels in FY 2023, Sales Tax growth was projected to decrease .1% in FY 2024, increase 2.9% in FY 2025, increase 3.6% in FY 2026, increase 3.2% in FY 2027 and increase 3.1% in FY 2028. However, the City's Sales Tax Consultant has noticed significant softening in some categories in FY 2024 and FY 2025 sales activity.

Therefore, current projections are an increase of .9% in FY 2025, an increase of 1.2% in FY 2026, an increase .9% in FY 2027, an increase 1.73% in FY 2028 and an increase 1.55% in FY 2029. However, these projections were made before President Trump implemented his trade policies.

The City's sales tax consultant is currently working on new projections that will take into account, as best as possible, the impacts of recent changes to federal trade policy.

Utility Users Tax
Utility Users Tax revenue for the nine months of FY 2025 totaled $14,355,777, which was $1,602,301 or 12.6% more than the $12,753,476 received for the same period in FY 2024.

Apart from significant increases in rates in 2022 and 2023, PG&E rate changes in 2024 were the following:

- On January 1, 2024, PG&E rates increased by about 13% across both generation and delivery
- On March 1, 2024, PG&E increased delivery rates by 0.3%
- On April 1, 2024, PG&E rates increased by 1.4%
- Natural gas prices have also increased this year. On September 1, 2024, PG&E implemented an 8.3% increase in natural gas rates.

UUT revenue was projected to increase 2.9% in FY 2025. However, due to gas and electricity rate increases approved by the Public Utilities Commission identified above, the FY total is projected to increase by 12.7%. Staff is projecting flat revenue in FY 2026 through FY 2029.

Transient Occupancy Tax
With the addition of a new hotel, FY 2023 gross TOT revenue exceeded pre-pandemic levels, and was at 30% growth above FY 2022 levels after subtracting the TOT rebates owed. That is no longer the case.

The total net Transient Occupancy Tax (TOT) revenue reported for the nine months of FY 2025 totaled $4,473,001 (after deducting $958,344 in TOT rebates owed), which was $570,644 or 11.3% less than the $5,043,645 (after deducting $913,421 in TOT rebates owed) received for the same period in 2024.The decline was primarily attributable to the failure of one of the six largest hotels to pay TOT in any of the nine months and the failure of another one to pay TOT in the last two months of the period.

Staff is projecting a 6.9% decline in net TOT revenue (TOT minus rebates) of 3.0% in FY 2025 and flat revenue from FY 2026 through FY 2029.

Business License Taxes
Staff projected flat growth in FY 2025 Business License Tax revenue. However, for the nine months of FY 2025 the average Business License tax renewal increased by approximately 5.1%.

As a result, the FY 2025 projection was increased to growth of 1.0%. Growth from FY 2026 through FY 2029 is projected at 2.0%.

Ambulance Fees
Ambulance growth was projected to increase 4% in FY 2024 and flatten out in FY 2025. However, revenue increased $2,767,548 or 53.8% due to an 8.4% increase in the number of transports and significant fee increases.

A decline of 2.2% in Ambulance Fees revenue was expected for FY 2025, but actual revenue is projected to increase by 1%, from $7,734,813 to $8,000,000.

Staff is projecting an 11.3% increase in FY 2026, due primarily to rate increases of 24%; and flat revenue in FY 2027 through FY 2029.

Interest Income
The sharp rise in interest rates triggered by the Feds is a double-edged sword: While the rise in interest rates negatively impacts the City's Property Transfer Taxes (through fewer property sales) and Secured Property Taxes and Vehicle In Lieu Taxes (through lower assessed values), it results in an increase in Interest Income. For FY 2024, Interest Income totaled $15,155,999, which was $3,038,974 more than the $12,117,025 received in FY 2023 and $8,461,877 received in FY 2022.

During the nine months of FY 2025, the net interest rate earned by the City increased from a range of 2.84% - 3.18% in contrast with the nine months of FY 2024 which increased a range of 2.92% - 3.32%. Despite that, total Interest Income declined because the yield curve was inverted in FY 2024 (i.e., short-term rates were greater than long-term rates) and is not inverted in FY 2025. The yield on overnight securities held in the Fidelity Money Market account and at Wells Fargo Bank dropped to around 4% in the nine months of FY 2025 from 5% for the same period in FY 2024.

Staff projected a decline in interest income of 10.0% in FY 2025, growth of 3.7% in FY 2026 and 3.6% in FY 2027, and no growth in FY 2028 and FY 2029. The growth projected in FY 2026 and FY 2027 is due to the maturity of $268.85 million of the City's investment portfolio that earns less than 2%.

Impact of The President's Trade Policies

The president imposed tariffs on almost every country in the world, but the ones with the biggest economic impact was the 145% tariffs he has imposed on Chinese goods coming into the US, and the ones imposed on Mexico, Canada and the European Union. China retaliated immediately with a 125% tariff on American goods going into China. The following are some of the impacts expected from Trump's trade policies:

- The Trade Policies Keep the Feds From Lowering Interest Rates and Interest Rates Won't Decline Unless US Economy is in Serious Trouble
  Entering 2025, the Federal Reserve was already reluctant to lower short-term interest rates because, although the Core Personal Consumption Expenditures Index (PCE) had declined substantially, it was still above the Fed's 2% goal and stuck around 2.8%. The president's tariffs will significantly increase the core PCE index, and the Feds is highly unlikely to lower short-term rates under these circumstances. At its March 19, 2025 meeting, the Feds left short-term rates unchanged because of the tariff uncertainty. The Feds is now in a bit of a pickle with the threat of stagflation (i.e., both an economic slowdown and rising inflation at the same time. The Feds would normally cut rates to deal with a slowdown, and raise rates to counter higher inflation. The looming economic slowdown and increase in inflation is solely created by the president's tariff policies. With stagflation the likely outcome of these tariff policies, the Feds is unlikely to change interest rates until rising inflation or an economic slowdown gets seriously out of hand.

  Despite the Core PCE index failing to reach the Fed's 2% goal, the Feds initially indicated that it wanted to cut short-term interest rates three to four times in 2025, until it became aware of the extent of the tariffs policy. After the tariffs were imposed, the Feds signaled it is no longer committed to lower rates due to the uncertainty surrounding the inflationary and economic impact of tariffs. Some Analysts are now predicting no cuts in 2025 unless the US enters a sharp recession.

- Consumer and Business Spending Will Decline and Move US Towards a Recession and Stagflation
  The president's on-again, off-again approach to tariff policy has created high economic anxiety and uncertainty for businesses and consumers as they worry that inflation will increase significantly and the economy will head towards a possibly severe recession. The University of Michigan's survey of consumer sentiment for April 2025 showed a reading that plummeted 11% to 50.8, the second lowest reading on records going back to 1952. "The April 2025 reading was lower than anything seen during the Great Recession. The decline was pervasive and unanimous across age, income, education, geographic region, and political affiliation." Joanne Hsu, the survey's director, said in a release. Sentiment has now lost more than 30% since December 2024.

  Most Analysts are now predicting that inflation will rise because of the tariffs and that consumers will spend less as a result- the so called "wealth effect". The "wealth effect" is a behavioral theory suggesting that people spend more as the value of their assets rise, and vice versa. The idea is that consumers feel more financially secure and confident about their wealth when home and investment portfolios increase in value. As stock prices plummet, we can expect consumers to reduce their spending.

- US Treasury Securities May No Longer Be Seen as the Safe Haven it Has Always Been For Investors
  However, this won't be enough for the market to move back to US Treasury securities as a haven of quality investors to move into in times of crisis. Flight-to-quality or flight-to-safety is a financial market phenomenon occurring when there is a crisis and investors sell what they perceive to be higher-risk investments and purchase safer investments, primarily US Treasuries, gold and, more recently, crypto currency. This is considered a sign of fear in the marketplace, as investors seek less risk in exchange for lower profits.

  In every crisis for the past 20-30 years, when equities are sold off sharply, US bonds were heavily purchased, pushing bond prices up and yields down. The opposite happened on April 8, 2025, as a result of the tariffs imposed which caused equity markets in the US and the rest of the world to collapse. This time the bond market participants didn't see US Treasuries as a haven of quality, it saw them as higher-risk investments that should be avoided. The 30- year Treasury's yield went above 5%, from 4.5% the previous week, and the 10-year Treasury yield rose to 4.4%, from 4.0% the previous week-both dramatic moves in less than one week. China had already retaliated with 125% tariffs on US goods, and European Union states had voted to approve 25% counter-tariff measures against the US to take effect the following day.

- There are Signs Foreign Investors are Running Away from the US Securities and the Dollar
  One of the important goals of the Trump Administration is to have the 10-year Treasury Bond yield fall sharply, which would lower mortgage rates and stimulate home purchases. The sharp sell-off in the US government bond market showed market concerns about the fallout of a trade war. Oil prices also fell to $56/barrel, signaling deteriorating confidence in the strength of the US economy. Therefore, the president was forced to scale back his tariff onslaught because of a "fire sale" in the bond market which could have triggered a financial meltdown.

Conclusion

Projecting revenues many years into the future is inherently difficult to do with accuracy, as shifts in the macroeconomic climate can cause asset valuations and economic output to fluctuate in ways not anticipated at the time projections are finalized. Staff use the best assumptions available, based on historic trends, observation of leading economic indicators, and known changes in the regulatory environment. President Trump has unnecessarily made it more difficult to make those projections with his shifting and uncertain trade policies. The uncertainty surrounding the current macroeconomic environment makes it unusually difficult to determine the impact on future City revenues

First, while the health emergency related to the COVID-19 pandemic has finally receded, and the restrictions that had constrained economic activity have been lifted, it appears that the local economy has been reshaped in ways that will not return to a pre-pandemic "normal." The increase in telecommuting that occurred in the past couple of years may not fully recede. This could have effects on spending activities of residents and employees of City businesses and institutions, as well as the desirability of certain locations for home purchases. The City continues to study and analyze these trends and make adjustments as more data comes in

Second, as reported last year, inflation rose to unacceptably high levels, causing the Federal Reserve Board to tighten monetary policy significantly to combat inflation. As a result, the Fed raised interest rates from a range of 0%-.25% in March 2022 to a range of 5.25%-5.50% currently. During this period the average mortgage rose from a little over 4.1% to as high as 8.0%, and are currently slightly below 7%. The high inflation and high mortgage rates continue to restrict real estate activity, consumer spending and the economy. Recently, the City's Sales Tax Consultant has noted a significant decline in sales activity in a number of categories in Berkeley, resulting in a slowdown in FY 2024 and FY 2025 Sales Tax revenue. Staff has also noticed an underperformance in TOT: FY 2025 growth was projected at 10.2%. However, the actual results through the first nine months of FY 2024 were a decline of 11.3%, as a result two of the six largest hotels having financial difficulties and missing TOT payments.

One positive sign from the Trump Administration is their goal of reducing the rate on the 10-year Treasury bond, to force mortgage rates down and stimulate the real estate market.

Third, gigantic and ongoing federal budget deficits, higher than acceptable inflation rates and the Federal Reserve Board tightening of the monetary supply to fight high inflation have replaced the COVID-19 pandemic as the biggest headwinds to economic growth in the City over the next few years. The Fed Chairman said the Feds will keep interest rates at a high level until its preferred inflation index (i.e., Core Personal Consumption Expenditure Index or PCE Index) declines below its target of 2% and the Feds is convinced it will remain so. It was still at 2.8% in February 2025. The Feds was doing a good job of engineering a soft landing for the economy (i.e., slowing the economy by tightening the money supply but not creating a recession) until President Trump started implementing his economic policies, especially his trade policies. Now it appears the US is headed towards a recession. The proposed $1.8 trillion federal budget deficit for FY 2025 will require the issuance of an additional $1.8 trillion in Treasury Bonds to fund the deficit. The federal budget deficit for FY 2026 and beyond are projected to worsen. The Congressional Budget Office (CBO) estimates that extending all of the tax cuts set to expire at the end of 2025 would add $4.7 trillion to the deficits over the next 10 years (or an average of $470 billion/year). This additional huge supply of bonds may overwhelm demand for Treasury Bonds and put further upward pressure on long-term interest rates, including mortgage rates.

As discussed under Secured Property Taxes and Property Transfer Taxes, the upward pressure on mortgage rates has lowered the growth rate for projected Secured Property Taxes, Vehicle In Lieu Taxes and Property Transfer Taxes; as a result, the City General Fund has, at least for the near term, lost its three primary drivers of annual growth, despite the rebound in FY 2025. As a result, the overall growth in General Fund revenue will struggle to remain positive. Fortunately for the City, this huge loss of General Fund revenue has been offset by significant increases in Interest Income and Ambulance Fees, but these increases may not be permanent. The inflation trends were headed in the right direction, but that success has been affected by the new trade policies and its effect will be impactful for a very long time.

Fourth, nuclear arms talk between the US and Iran have been restarted and both sides have indicated that progress is being made. The war in Europe between Ukraine and Russia continues, the war in the Middle East has again escalated. The manipulation of oil supplies by OPEC+ have the potential to dramatically reshape global markets, inflation and interest rates, especially if Russian oil and natural gas are cut off from the rest of the world. This would drive fuel and transportation prices higher, with downstream effects on the prices of most goods. This could keep the inflation rate and interest rates higher for a longer period of time, and negatively impact consumer spending.

Any one or a combination of these factors could necessitate further revision of the projections presented here. Staff will continue to monitor the revenues we actually receive and changes in the economic environment, so that we may update or revise our projections if changes in our forecasts are warranted.

General Fund: List of Vacant Positions and Impacts
Fiscal Year 25-26

Position	Impact
City Attorney Office	
Senior Legal Secretary	Impacts capacity to respond to and prosecute lawsuits.
City Clerk	
Office Specialist III	No significant impacts to operations.
City Manager	
Admin. Assistant	Position assigned to DEI office. Impacts ability to implement projects in a timely manner.
Deputy City Manager	Impacts span of control for City Manager and Deputy City Manager who will both oversee additional departments and divisions. Maintaining the vacant position limits the resource available to provide executive support.
Digital Comms. Coordinator	Impacts response times to communication requests.
Program Manager I	This position was a temporary reclass of the vacant Sr. Management Analyst in the Division. This position was created to design and implement an operational and sustainability plan for the African American Holistic Resource Center prior to its anticipated FY 2027 opening. Staff within the City Manager's Office will be reassigned to this body of work.
Finance	
Accounting Office Specialist II	Clerical billing processes will be delayed. Additional work for other staff. Longer timeline to respond to customer service and 311 caller issues.
Accounting Office Specialist II	Treasury clerical processes delayed. Cash receipt balancing and payment processing will take longer and monthly financial close will be delayed
Customer Service Specialist II	Fewer Customer Service staff will lead to longer wait times at the Finance Counter for public making payments, applying for business licenses, contesting citations, etc. Without these positions, there is no margin to continue normal counter operations in case of absences.
Customer Service Specialist II	Fewer Customer Service staff will lead to longer wait times at the Finance Counter for public making payments, applying for business licenses, contesting citations, etc. Without these positions, there is no margin to continue normal counter operations in case of absences.

Position	Impact
Fire	
Firefighters (5)	If the department can maintain full staffing through FY26 and move some long-term employees who are off work on injury towards industrial disability retirement/medical separation, holding these relief positions vacant will not have any substantial impact on service delivery.
Paramedics (3)	Keeping three of 32 FTE vacant will not have any detrimental impact on operations. The Department will need to recruit and hire for vacancies that rise above these three vacant positions to ensure that we don't overburden the existing workforce with forced overtime which has historically been followed by fatigue and injury.
Health, Housing, and Human Services	
Mobile Crisis – Clinician and Supervisor	Positions have been vacant for more than three years and are hard to fill. The vacancies result in reduced ability to dispatch mobile crisis services, typically a joint response with law enforcement. Hours of availability will not be able to be extended. Currently the hours of operation are limited to 11:30a-10p, Sun, Mon, Wed, Thu, Fri.
Community Dev. Project Coordinator	Will reduce the Department's ability to respond to complaints regarding labor standards complaints including the new Hard Hats ordnance.
Health Services Program Specialist	Limited number of staff for onsite for program coverage on any given day (i.e. if someone calls in sick or on vacation).
Office Specialist II	This position is assigned to the Meals on Wheels program. Minimal disruption as other staff currently covering duties.
Senior Health Services Program Specialist	Public Health's ability to respond to a variety of public health issues may take longer.
Social Services Specialist	Reduced availability of staff to assist seniors that would decrease the utilization of aging services by the community.
Human Resource	
Office Specialist II	Clerical work will be re-prioritized, delayed, or reallocated; only as necessary, on a project-by-project basis, interns may be used to perform lower-level clerical work.
Parks, Recreation and Waterfront	
Aquatics Facility Supervisor	Responsible for maintenance of our pools (West Campus, King and Echo Lake). The department will need to continue to use outside contractors to ensure that City pools comply with county and state mandates. The department has been contracting with 2 different firms to accomplish this work as this position has been vacant for a couple of years.

Position	Impact
Planning	
Community Services Spec. I	This will impact the Department's ability to implement the recently adopted (April 15, 2025) Building Emissions Saving Ordinance (BESO) time of sale upgrade requirements, which are scheduled to take effect in January 2026
Office Specialist II	No intended impacts. This is a planned vacancy; the Department agreed to hold this position vacant through Fiscal Year 2026, to offset increased General Fund allocation to extend a temporary Senior Planner position to April 2026.
Police	
Police Officer (7)	Given the number of police officer vacancies, holding these positions vacant is manageable as the department can continue to hire and will have the resources needed for overtime to ensure continuity in operations.
Public Safety Dispatchers (4)	Given the number of dispatcher vacancies, holding these positions vacant is manageable as the department can continue to hire and will have the resources needed for overtime to ensure continuity in operations.
Public Safety Dispatcher Supervisor	Holding this position vacant is manageable as the department can continue to hire and will have the resources needed for overtime to ensure continuity in operations.
Office Specialist III	TBD
Public Works	
Associate Planner - Transportation	Reduces ability to achieve vision zero program implementation. Other planners can pick up capacity. Project priorities will need to be evaluated to account for reduced capacity.
Supervisor – Streets Maintenance	Minimal impact. This vacancy will require work to be performed though out of class rotations to ensure adequate supervision for crews.

EXHIBIT 1
General Fund: Overview of Budgeted Vacant Positions (1)
Fiscal Year 25-26

	Budgeted Vacancies		Filled Positions		Exemptions		Adjusted Budgeted Vacancies	
	FTE's	Amount	FTE's	Amount	FTE's	Amount	FTE's	Amount
City Attorney	2.0	$401,598	0.0	$0	0.0	$0	2.0	$401,598
City Clerk	1.0	137,101	0.0	0	0.0	0	1.0	137,101
City Manager	5.0	1,171,005	0.0	0	0.0	0	5.0	1,171,005
Finance	11.5	1,788,904	0.0	0	0.0	0	11.5	1,788,904
Health, Housing and Community Services	14.8	2,920,720	4.5	1,068,861	1.0	235,649	9.3	1,616,210
Human Resources	1.9	501,482	0.9	380,079	0.0	0	1.0	121,403
Information Technology	0.0	0	0.0	0	0.0	0	0.0	0
Planning	1.8	239,275	0.5	66,077	0.0	0	1.3	173,198
Parks, Recreation, & Waterfront	1.0	112,970	0.0	0	0.0	0	1.0	112,970
Public Works	3.8	732,773	0.0	6,070	0.8	193,730	3.0	532,973
Total Non-Sworn	42.8	8,005,828	5.9	1,521,087	1.8	429,379	35.1	6,055,362
Police	64.0	$14,000,921	4.0	$1,114,716	9.0	$1,613,115	51.0	$11,273,090
Fire	22.0	3,239,437	1.0	138,249	3.0	540,018	18.0	2,561,170
Total Sworn	86.0	17,240,358	5.0	1,252,965	12.0	2,153,133	69.0	13,834,260
Total Non-Sworn and Sworn	**128.8**	**$25,246,186**	**10.9**	**$2,774,052**	**13.8**	**$2,582,512**	**104.1**	**$19,889,622**

(1). Excludes the Auditor and Office of the Director of Police Accountability.

EXHIBIT 2
General Fund: Estimated Savings From Corrections, Reallocations, and Vacancy
Fiscal Year 25-26

	Corrections		Reallocations		Vacant Positons		Total Estimated Savings	
	FTE's	Amount	FTE's	Amount	FTE's	Amount	FTE's	Amount
City Attorney	0.0	$0	0.0	$0	1.0	$142,630	1.0	$142,630
City Clerk	0.0	0	0.0	0	1.0	137,101	1.0	137,101
City Manager	0.0	0	0.0	0	4.0	1,049,602	4.0	1,049,602
Finance	0.0	0	0.0	0	4.0	491,900	4.0	491,900
Health, Housing and Community Services	0.0	0	0.8	108,326	6.1	1,074,757	6.9	1,183,083
Human Resources	0.0	0	0.0	0	1.0	121,403	1.0	121,403
Information Technology	0.0	0	0.0	0	0.0	0	0.0	0
Planning	0.0	0	0.0	0	1.3	173,198	1.3	173,198
Parks, Recreation, & Waterfront	0.0	0	0.0	0	1.0	112,970	1.0	112,970
Public Works	0.0	0	1.0	196,569	2.0	336,404	3.0	532,973
Total Non-Sworn	0.0	$0	1.8	$304,895	21.4	$3,639,965	23.2	$3,944,860
Police	1.0	$376,054	0.0	$0	13.0	$2,772,085	14.0	$3,148,139
Fire (1)	0.0	0	10.0	926,930	8.0	1,334,240	18.0	2,261,170
Total Sworn	1.0	$376,054	10.0	$926,930	21.0	$4,106,325	32.0	$5,409,309
Total Non-Sworn and Sworn	**1.0**	**$376,054**	**11.8**	**$1,231,825**	**42.4**	**$7,746,290**	**55.2**	**$9,354,169**

(1) Adjusted for overtime needed due to paramedic positions being held vacant

EXHIBIT 3
General Fund: Vacant Budgeted Positions, By Department
Fiscal Year 25-26

	A (Exhibit 1) Adjusted Budgeted Vacancies		B (Exhibit 2) Corrections, Reallocations and Vacant Positions		C=A-B Remaining Budgeted Vacant Positons	
	FTE's	Amount	FTE's	Amount	FTE's	Amount
City Attorney	2.0	$401,598	1.0	$142,630	1.0	$258,968
City Clerk	1.0	137,101	1.0	137,101	0.0	0
City Manager	5.0	1,171,005	4.0	1,049,602	1.0	121,403
Finance	11.5	1,788,904	4.0	491,900	7.5	1,297,004
Health, Housing and Community Services	9.3	1,616,210	6.9	1,183,083	2.4	433,127
Human Resources	1.0	121,403	1.0	121,403	0.0	0
Information Technology	0.0	0	0.0	0	0.0	0
Planning	1.3	173,198	1.3	173,198	0.0	0
Parks, Recreation, & Waterfront	1.0	112,970	1.0	112,970	0.0	0
Public Works	3.0	532,973	3.0	532,973	0.0	0
Total Non-Sworn	35.1	$6,055,362	23.2	$3,944,860	11.9	$2,110,502
Police	51.0	$11,273,090	14.0	$3,148,139	37.0	$8,124,951
Fire (1)	18.0	2,561,170	18.0	2,261,170	0.0	300,000
Total Sworn	69.0	$13,834,260	32.0	$5,409,309	37.0	$8,424,951
Total Non-Sworn and Sworn	**104.1**	**$19,889,622**	**55.2**	**$9,354,169**	**48.9**	**$10,535,453**

(1) Amount in Column C reflects resources needed for overtime that results from positions held vacant.

General Fund Vacant Positions as of 04.01.2025							
Department Name	**PCN#**	**Position Description**	**Budgeted Amount**	**% GF Funded**	**How long has the position been vacant?**	**Filled**	**Notes**
City Attorney	N/A	RISK MANAGER	$ 258,968	1.00	1+ years	No	Budgeted
City Attorney	991	SENIOR LEGAL SECRETARY - CA - OFFICE OF THE CITY ATTY	$ 142,630	1.00	1+ years	No	Held Vacant
City Attorney Total			**$ 401,598**	**2.00**			
City Auditor	783	ACCOUNTING TECHNICIAN - AUDITOR - PAYROLL DIVISON	$ 161,902	1.00	1 to 3 months		
City Auditor	1746	AUDITOR I - AUDITOR - PERFORMANCE DIVISION	$ 169,155	1.00	1 to 3 months		
City Auditor	2908	SENIOR AUDITOR - AUDITOR - PAYROLL DIVISON	$ 211,461	1.00			
City Auditor Total			**$ 542,518**	**3.00**			
City Clerk	1271	OFFICE SPECIALIST III - CC - OFFICE OF THE CITY CLERK	$ 137,101	1.00	2-3 years	No	Held vacant
City Clerk Total			**$ 137,101**	**1.00**			
City Manager	3952	ADMIN ASSISTANT UNREP - CMO - OFFICE OF THE CITY MANAG	$ 137,584	1.00	4 to 6 months	No	Held vacant
City Manager	1898	DEPUTY CITY MANAGER	$ 508,852	1.00	4 to 6 months	No	Held vacant
City Manager	1416	DIGITAL COMNCATNS COORD - CMO - COMMUNICATIONS	$ 212,996	1.00	1 to 3 months	No	Held vacant
City Manager	1628	OFFICE SPECIALIST II - CMO - OFFICE OF THE CITY MANAG	$ 121,403	1.00	7 to 12 months	No	Budgeted to address span of control issues at Animal Shelter
City Manager	2588	PROGRAM MANAGER I	$ 190,170	1.00	7 to 12 months	No	Held vacant
City Manager Total			**$ 1,171,005**	**5.00**			
Finance	3578	ACCT OFF SPEC II MC - FIN - REV COLLECTION - LICENSING	$ 121,754	1.00	4 to 6 months	No	Hold Vacant
Finance	1430	ACCT OFF SPEC II MC - FIN - TREASURY - DIVISI	$ 121,754	1.00	4 to 6 months	No	Hold Vacant
Finance	3866	ACCT OFF SPEC III MC - FIN - TREASURY - DIVISION	$ 137,947	1.00	4 to 6 months	No	Budgeted
Finance	565	ADMIN SECRETARY - FINANCE - OFFICE OF THE DIR	$ 183,749	1.00	1 to 3 months	No	Budgeted
Finance	221	ASSOC MGMT ANALYST CSU - FIN - REV COLLECTION - LICENSING	$ 86,328	0.50	1+ years	No	Budgeted, plan to fill 1/1/26
Finance	1220	CUSTOMER SVC SPEC II - FIN - REV COLLECTION - CUST SVC	$ 124,196	1.00	7 to 12 months	No	Hold Vacant
Finance	2477	CUSTOMER SVC SPEC II - FIN - REV COLLECTION - CUST SVC	$ 124,196	1.00	7 to 12 months	No	Hold Vacant
Finance	1282	GENERAL SERVICES MANAGER - FIN - GENERAL SERVICES - DIVISON	$ 211,973	1.00	4 to 6 months	No	Budgeted
Finance	2597	REVENUE DEVELOPMENT SPEC I - FIN - TREASURY - REV DEVELOPMENT	$ 142,340	1.00	1+ years	No	Budgeted
Finance	3310	REVENUE DEVELOPMENT SPEC I - FIN - TREASURY - REV DEVELOPMENT	$ 142,340	1.00	1+ years	No	Budgeted
Finance	2461	REVENUE DEVELOPMENT SUP - FIN - TREASURY - REV DEVELOPMENT	$ 185,934	1.00	1+ years	No	Budgeted
Finance	1289	SENIOR SYSTEMS ANALYST - FIN - ANALYTICAL SYS DIV	$ 206,393	1.00	7 to 12 months	No	Budgeted
Finance Total			**$ 1,788,904**	**11.50**			
Fire	4451	FIRE CAPTAIN II - FD - OPERAT - FIRE SUPPRESSION	$ 281,161	1.00	1-2 years	No	Proposed to be filled, Exemption
Fire	2772	FIREFIGHTER - FD - OPER - EMERGENCY MED SVCS	$ 217,468	1.00	1 to 3 months	No	Held vacant
Fire	3891	LIMITED TERM EMT	$ 92,693	1.00	2-3 years	No	To Be Funded by Measure FF
Fire	3892	LIMITED TERM EMT	$ 92,693	1.00	2-3 years	No	To Be Funded by Measure FF
Fire	3893	LIMITED TERM EMT	$ 92,693	1.00	2-3 years	No	To Be Funded by Measure FF
Fire	3894	LIMITED TERM EMT	$ 92,693	1.00	2-3 years	No	To Be Funded by Measure FF
Fire	3895	LIMITED TERM EMT	$ 92,693	1.00	2-3 years	No	To Be Funded by Measure FF
Fire	3896	LIMITED TERM EMT	$ 92,693	1.00	2-3 years	No	To Be Funded by Measure FF
Fire	3897	LIMITED TERM EMT	$ 92,693	1.00	2-3 years	No	To Be Funded by Measure FF
Fire	3898	LIMITED TERM EMT	$ 92,693	1.00	2-3 years	No	To Be Funded by Measure FF
Fire	3899	LIMITED TERM EMT	$ 92,693	1.00	2-3 years	No	To Be Funded by Measure FF
Fire	3900	LIMITED TERM EMT	$ 92,693	1.00	2-3 years	No	To Be Funded by Measure FF
Fire	2894	MECHANIC - FIRE DEPARTMENT	$ 139,076	1.00	7 to 12 months	No	Exemption, proposed to be filled
Fire	1924	OFFICE SPECIALIST II - FD - CHIEF ADMIN & FISCAL SRV	$ 119,781	1.00	1 to 3 months	No	Exemption, proposed to be filled
Fire	2773	FIREFIGHTER - FD - OPER - EMERGENCY MED SVCS	$ 256,015	1.00	1 to 3 months	No	Held vacant
Fire	1409	FIREFIGHTER - FD - OPER - EMERGENCY MED SVCS	$ 241,540	1.00	1 to 3 months	No	Held vacant

General Fund Vacant Positions as of 04.01.2025							
Department Name	**PCN#**	**Position Description**	**Budgeted Amount**	**% GF Funded**	**How long has the position been vacant?**	**Filled**	**Notes**
Fire	2748	FIREFIGHTER - FD - OPER - EMERGENCY MED SVCS	$ 248,613	1.00	1 to 3 months	No	Held vacant
Fire	1049	FIREFIGHTER - FD - OPER - EMERGENCY MED SVCS	$ 244,214	1.00	1 to 3 months	No	Held vacant
Fire	3609	PARAMEDIC - FIRE	$ 138,249	1.00	1 to 3 months	Yes	Filled
Fire	3930	PARAMEDIC (R) - FD OPER EMERGENCY MED SVCS S-P	$ 142,130	1.00	1 to 3 months	No	Held vacant
Fire	3932	PARAMEDIC (R) - FD OPER EMERGENCY MED SVCS S-P	$ 142,130	1.00	1 to 3 months	No	Held vacant
Fire	4608	PARAMEDIC (R) - FD OPER EMERGENCY MED SVCS S-P	$ 142,130	1.00	1 to 3 months	No	Held vacant
Fire Total			**$ 3,239,437**	**22.00**			
HHCS	3589	(T) COM SERVICE SPEC II - HHCS-HCS - HOMELESS SERVICES	$ 172,665	1.00		Yes	Filled, temp position
HHCS	2535	BEHAVIORAL HLTH CLIN II - HHCS-AGING - SOCIAL SERVICES	$ 96,468	0.44	1 to 3 months	No	Budgeted
HHCS	2404	BEHAVIORAL HLTH CLIN II - HHCS-MH - CRISIS SERVICES	$ 164,261	1.00	3+ years	No	Hold Vacant, hard to fill position
HHCS	2630	COM DEVELOPMENT PROJ COOR - HHCS-HCS - COMMUNITY SVCS	$ 188,182	1.00	2-3 years	No	Hold Vacant
HHCS	2517	CUSTOMER SERVICE SPECIALIST II - HHCS - PHOU - VITAL STATISTICS	$ 116,739	0.94	4 to 6 months	Yes	Exception - Candidate selected, ready for onboarding
HHCS	1594	HEALTH OFFICER (CERT) - HHCS-PHOU UNIT	$ 449,062	1.00	1 to 3 months	Yes	Budgeted
HHCS	568	HEALTH SERVICES PROGRAM SPEC - HHCS-PH - FAMILY WELL - WBFWC	$ 118,527	0.72	4 to 6 months	No	Hold Vacant
HHCS	1206	HEALTH SERVICES PROGRAM SPEC - HHCS-PH - PREPAREDNESS	$ 37,845	0.23	1 to 3 months	No	Budgeted
HHCS	1057	HEALTH SERVICES SUPERVISOR- HHCS - PH - ADMINISTRATION	$ 104,453	0.50	1 to 3 months	Yes	Filled
HHCS	1638	MEALSITE COORDINATOR - HHCS-AGING - STH BERK SR CNTR	$ 16,591	0.16	1 to 3 months	No	Budgeted
HHCS	3335	MENTAL HEALTH CLINICAL SUPV - HHCS-MH - CRISIS SERVICES	$ 164,224	0.90	2-3 years	No	Hold Vacant, hard to fill position
HHCS	826	OFFICE SPECIALIST II - HHCS-AGING - STH BERK SR CNTR	$ 119,598	1.00	3+ years	No	Hold Vacant
HHCS	204	OFFICE SPECIALIST II - HHCS-EH - ADMINISTRATION	$ 74,123	0.60	1 to 3 months	No	Budgeted
HHCS	653	SENIOR COMM DEVLP PROJ COORD - HHCS-HCS - HOUSING	$ 208,100	1.00	4 to 6 months	No	Budgeted
HHCS	792	SENIOR HEALTH SERV PROG SPEC - HHCS-PH - FAMILY WELL - WBFWC	$ 227,927	1.00	1 to 3 months	No	Hold Vacant
HHCS	3394	SENIOR HEALTH SERV PROG SPEC - HHCS-PH - PREPAREDNESS	$ 105,770	0.50	1 to 3 months	Yes	Filled
HHCS	1429	SOCIAL SERVICES SPECIALIST - HHCS-AGING - SOCIAL SERVICES	$ 92,038	0.50	1 to 3 months	No	Hold Vacant
HHCS	851	SUPERVISING PUBLIC HLTH NURSE - HHCS-PHOU - COMMUNICABLE DIS	$ 120,172	0.51	4 to 6 months	Yes	Exception - Candidate selected, ready for onboarding
HHCS	1960	SUPERVISING PUBLIC HLTH NURSE - HHCS-PHOU - COMMUNICABLE DIS	$ 235,649	1.00	4 to 6 months	No	Exception to be submitted, candidate selected
HHCS	1056	VECTOR CONTROL TECHNICIAN - HHCS-EH - DIVISION	$ 108,326	0.78	2-3 years	No	Reallocated
HHCS Total			**$ 2,920,720**	**14.78**			
HR	1597	DIR OF HUMAN RESOURCES - HR - OFFICE OF HR DIRECTOR	$ 380,079	0.90	1 to 3 months	Yes	To be Filled June 2025
HR	1498	OFFICE SPECIALIST II	$ 121,403	1.00	1 to 3 months	No	Held vacant
HR Total			**$ 501,482**	**1.90**			
Mayor and Council	3234	LEGISLATIVE AIDE - MAYOR'S OFFICE	$ 142,454	1.00	7 to 12 months		
Mayor and Council Total			**$ 142,454**	**1.00**			
ODPA	171	ASSOCIATE MANAGEMENT ANALYST - MAYOR'S OFFICE - OFFICE OF DIR. POLICE AC	$ 172,848	1.00	4 to 6 months		
ODPA	3777	POLICE ACCOUNTABILITY INVESTIGATOR - MAYOR'S OFFICE - OFFICE OF DIR.	$ 203,444	1.00	1 to 3 months		
ODPA Total			**$ 376,292**	**2.00**			
Planning	1417	COMMUNITY SERVICE SPEC I - PLAN - ENERGY AND SUSTAINABILITY	$ 113,866	0.80	1 to 3 months	No	Hold vacant
Planning	1506	OFFICE SPECIALIST II - PLAN - LAND USE - DIVISION	$ 59,332	0.50	1-2 years	No	Hold vacant
Planning	3349	PLANNING TECHNICIAN - PLAN - LAND USE - DIVISION	$ 66,077	0.50	1 to 3 months	Yes	Filled positon
Planning Total			**$ 239,275**	**1.80**			
Police	2283	COMMUNITY SERVICE OFFICER- PD - SUP SRVS - JAIL	$ 140,490	1.00	1 to 3 months	No	Exception Approved
Police	3918	COMMUNITY SERVICE OFFC SUP - PD -SUP SRV - RECORDS/SUBPOENA	$ 134,038	1.00	7 to 12 months	No	Budgeted
Police	3917	COMMUNITY SERVICE OFFICER - PD - INVES DETECT/CRIME ANLYST	$ 134,038	1.00	7 to 12 months	No	Exception Approved

General Fund Vacant Positions as of 04.01.2025							
Department Name	**PCN#**	**Position Description**	**Budgeted Amount**	**% GF Funded**	**How long has the position been vacant?**	**Filled**	**Notes**
Police	3912	COMMUNITY SERVICE OFFICER- PD -INVES DETECT/CRIME ANLYST	$ 134,038	1.00	7 to 12 months	No	Exception Approved
Police	3915	COMMUNITY SERVICE OFFICER- PD -INVES DETECT/CRIME ANLYST	$ 134,038	1.00	7 to 12 months	No	On pause, Budgeted
Police	3916	COMMUNITY SERVICE OFFICER- PD -INVES DETECT/CRIME ANLYST	$ 134,038	1.00	7 to 12 months	No	On pause, Budgeted
Police	3318	CRIME ANALYST - PD -INVES DETECT/CRIME ANLYST	$ 173,950	1.00	4 to 6 months	No	Budgeted
Police	1567	OFFICE SPECIALIST III M&C PD -SUP SRV - RECORDS/SUBPOENA	$ 145,740	1.00	1 to 3 months	No	Hold Vacant
Police	380	OFFICE SPECIALIST III PD -PRO STAND - PERSON & TRAIN	$ 165,609	1.00	1 to 3 months	No	Budgeted
Police	3167	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 286,877	1.00	1+ years	No	Budgeted
Police	956	POLICE OFFICER - PD - INVES DETECT/CRIME ANLYST	$ 278,679	1.00	1+ years	No	Budgeted
Police	302	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	Yes	Exception Approved
Police	335	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	Yes	Exception Approved
Police	467	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,518	1.00	1+ years	Yes	Exception Approved
Police	474	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	No	Hold Vacant
Police	579	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	No	Hold Vacant
Police	650	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	No	Hold Vacant
Police	679	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	No	Hold Vacant
Police	750	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	Yes	Filled
Police	1110	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	No	Hold Vacant
Police	1166	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	No	Hold Vacant
Police	1177	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	No	Hold Vacant
Police	1450	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	Yes	Filled
Police	1880	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	Yes	Filled
Police	2499	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	No	Budgeted
Police	4367	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	No	Budgeted
Police	4368	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	No	Budgeted
Police	447	POLICE OFFICER - PD -INVES DETECT/CRIME ANLYST	$ 278,679	1.00	1+ years	No	Budgeted
Police	894	POLICE OFFICER - PD -INVES DETECT/CRIME ANLYST	$ 278,679	1.00	1+ years	Yes	Filled
Police	1081	POLICE OFFICER - PD -OPERATIONS - PATROL	$ 278,679	1.00	1+ years	No	Budgeted
Police	932	POLICE OFFICER 12.5 - PD - OPERATION - PATROL	$ 278,679	1.00	1+ years	No	Budgeted
Police	2814	POLICE OFFICER 12.5 - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	No	Budgeted
Police	2827	POLICE OFFICER 12.5 - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	No	Budgeted
Police	2828	POLICE OFFICER 12.5 - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	No	Budgeted
Police	2831	POLICE OFFICER 12.5 - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	No	Budgeted
Police	2959	POLICE OFFICER 12.5 - PD - OPERATIONS - PATROL	$ 294,665	1.00	1+ years	No	Budgeted
Police	2963	POLICE OFFICER 12.5 - PD - OPERATIONS - PATROL	$ 290,181	1.00	1+ years	No	Budgeted
Police	498	POLICE OFFICER- PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	No	Budgeted
Police	570	POLICE OFFICER- PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	No	Budgeted
Police	590	POLICE OFFICER- PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	No	Budgeted
Police	892	POLICE OFFICER- PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	No	Budgeted
Police	774	POLICE OFFICER- PD -INVES DETECT/CRIME ANLYST	$ 278,679	1.00	1+ years	No	Budgeted
Police	4452	POLICE SERGEANT - PD - OPERATIONS - PATROL	$ 376,054	1.00	7 to 12 months	Yes	Remove, Provisional, should not be budgeted in FY 26
Police	473	POLICE SERGEANT- PD - OPERATIONS - PATROL	$ 376,054	1.00	1+ years	Yes	Budgeted
Police	271	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	No	Hold Vacant
Police	344	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	No	Hold Vacant

General Fund Vacant Positions as of 04.01.2025							
Department Name	**PCN#**	**Position Description**	**Budgeted Amount**	**% GF Funded**	**How long has the position been vacant?**	**Filled**	**Notes**
Police	346	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	1+ years	No	Hold Vacant
Police	581	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	No	Exception approved
Police	924	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	No	Exception approved
Police	1059	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	No	Exception approved
Police	3316	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	No	Hold Vacant
Police	3375	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	No	Budgeted
Police	3905	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	No	Budgeted
Police	3906	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	No	Budgeted
Police	3907	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	No	Budgeted
Police	3908	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	No	Budgeted
Police	3909	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	No	Budgeted
Police	4453	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 130,231	1.00	1 to 3 months	No	Budgeted
Police	341	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 157,316	1.00	1 to 3 months	No	Budgeted
Police	275	PUBLIC SAFETY DISPATCHER II- PD - SUP SRV - COMMUNICAT CNTR	$ 162,936	1.00	7 to 12 months	No	Budgeted
Police	767	PUBLIC SAFETY DISPATCHER II- PD - SUP SRV - COMMUNICAT CNTR	$ 162,936	1.00	7 to 12 months	No	Budgeted
Police	1148	PUBLIC SAFETY DISPATCHER II- PD - SUP SRV - COMMUNICAT CNTR	$ 162,936	1.00	7 to 12 months	No	Budgeted
Police	3317	PUBLIC SAFETY DISPATCHER II- PD - SUP SRV - COMMUNICAT CNTR	$ 162,936	1.00	7 to 12 months	No	Budgeted
Police	3911	SUPERVISING PUBLIC SFTY DISP - PD - SUP SRV - COMMUNICAT CNTR	$ 184,028	1.00	7 to 12 months	No	Hold vacant
Police Total			**$ 14,000,921**	**64.00**			
PRW	2527	AQUATICS FACILITIES SUP - PRW - REC - W CAMPUS SWIM CTR	$ 112,970	1.00	1-2 years	No	Hold vacant
PRW Total			**$ 112,970**	**1.00**			
Public Works	3880	(PB) ASSOC PLANNER - PW - TRANSPORTATION - PLANNING	$ 168,678	1.00	4 to 6 months	No	Hold vacant
Public Works	162	ACCOUNTING OFFICE SPEC III MC - PW DIRECTOR - CUSTOMER SVCS	$ 6,070	0.04	1 to 3 months	Yes	Filled
Public Works	3879	ASST CIVIL ENG (REG) - PW - GEN ENG - FACILITIES/BLDGS	$ 196,569	1.00	1-2 years	No	Reallocate to Measure FF
Public Works	3881	PUBLIC WORKS SUPERVISOR - PW - STREETS - STREET MAINT	$ 167,726	1.00	1-2 years	No	Hold vacant
Public Works	569	SUPERVISING TRANSPORTATION ENGINEER - PW - TRANS - TRAFFIC ENG	$ 193,730	0.80	1-2 years	No	Exemption, proposed to be filled
Public Works Total			**$ 732,773**	**3.84**			
Grand Total			**$ 26,307,450**	**134.82**			

Summary of Unfunded Council Referrals to the Budget Process
For the Period July 1, 2024 to June 30, 2025

Item#	Title	Council Date	2025	2026	Funding Details	Referred By
1	Refer to the City Manager to fund and develop a Curb Management Plan.	7/30/2024	$ 250,000		Refer to the City Manager for budgetary projecting; a long-term funding plan is necessary. (tentatively estimated at $100,000-$250,000).	Cecilia Lunaparra, Chair, ECC
2	Independent Consultant to Conduct Analysis of Health Food Inspection Program	9/24/2024	$ 100,000		$100,000 for the City Manager to engage an independent consultant to conduct an analysis of the current structure of the Environmental Health Food Inspection Program and provide recommendations for alternative models, staffing levels, and increased use of technology to improve customer service.	Kesarwani, Humbert, Tregub, and Wengraf
3	Civic Arts Commission Fund Request - Mitigation Fee Nexus Study, Public Art on Private Development Requirement	9/24/2024	$ 125,000		Allocate $125,000 in the FY24/25 Budget to fund a nexus study on the existing Public Art on Private Development Requirement (Berkeley Municipal Code 23.316), which was established in 2017.	Civic Arts Commission
4	Funding for Speed Bump at Russell and Martin Luther King Jr. Way	10/29/2024	$ 7,000		Speed bump installation on Russell Street at King Street or other costs associated with the traffic calming method that City Staff sees fit.	Bartlett
5	Afterschool Program Expansion	11/12/2024	$ 300,000		Fund afterschool program expansion.	Taplin
6	F and G Dock Deck Replacement	11/12/2024	$ 500,000		funding of F and G dock deck replacement.	Taplin
7	Traffic Study and Pedestrian Safety Operations at the Pedestrian Crossing on Shattuck Avenue and Delaware Street	11/12/2024	$ 125,000		One-time funding for a traffic study and pedestrian safety operations at the pedestrian crossing on Shattuck Avenue at Delaware Street.	Tregub and Hahn
8	Curb Marking and Preventative Infrastructure Upgrades at High-Risk Intersections in Accordance with the New California Daylighting Law, AB 413	1/21/2025		$ 1,250,000	Refer $1,250,000 to the June budget process (FY26 Mid-Biennial Update) to provide the City of Berkeley Public Works Department with necessary funds for curb marking and preventative infrastructure upgrades in accordance with the new California Daylighting Law, AB 413.	Lunaparra and Humbert
9	Ohlone Greenway Safety Improvements	4/15/2025		$ 150,000	Fund the outstanding balance for consultant costs to finalize the design concepts to complete the Ohlone Greenway Safety Improvements Project	Kesarwani

Summary of Unfunded Council Referrals to the Budget Process
For the Period July 1, 2024 to June 30, 2025

Item#	Title	Council Date	2025	2026	Funding Details	Referred By
10	Thousand Oaks Park Playground Update	4/15/2025		$ 80,000	Completion of a new airplane themed play structure at Thousand Oaks Park, located at 1700-1780 Tacoma Avenue	O'Keefe and Humbert
11	Afterschool Program Expansion	4/29/2025		$ 300,000	Afterschool program expansion	Taplin, O'Keefe, and Bartlett
12	F and G Dock Deck Replacement	4/29/2025		$ 250,000	F and G dock replacement funding to the Fiscal Year 26 MidBiennial Budget Update	Taplin
13	Deportation Defense Legal and Education Funds	4/29/2025		$ 200,000	Refer to the Fiscal Year 2026/2027 Budget Process an allocation of $200,000 for Deportation Defense Legal and Education Funds.	Blackaby, Lunaparra, Tregub, and Mayor Ishii
14	Process to Partially Cover Street Spirit's Operational and Programming Costs	4/29/2025		$ 25,000	Subsidize the cost of running Street Spirit's drop-in center and vendor coordination program	Lunaparra
15	Oxford for All	6/3/2025		$ 400,000	Provide the City of Berkeley Public Works Department with necessary funds to support design, engineering, and construction costs for the project (quick-build class IV bicycle facility)	Tregub and Lunaparra
16	Civic Arts Commission Funding Request - Additional $41,685 from the General Fund in FY26 for Festival Grants	6/17/2025		$ 41,685	Increase budget allocation of $41,685 of general fund monies to bring the total allocation for Festival Grants to $200,000 in FY26.	Cameron Woo, Chairperson, Civic Arts Commission
17	Continuation of Poet Laureate Program in FY26 & FY27	6/17/2025		$ 25,000	FY26: $20,000 for Selection Process (including staff time) and Poet Laureate Stipend in Year One FY27: $5,000 for Poet Laureate Stipend in Year Two	Cameron Woo, Chairperson, Civic Arts Commission
		Total	**$ 1,407,000**	**$ 2,721,685**		
		Grand Total	**$ 4,128,685**			

FY 2025 - FY 2026 Capital Program by Funding Source - General Fund

Item #	Program Category	Project Title	New or Continuing	FY 2025 Adopted	FY 2026 Adopted	FY 2025 Actuals to Date	Project Status	Impact if Deferred or Reallocated
1	Camps	Cazadero Riverbed Erosion	New	$ 300,000	$ -	$ 100,000	In-Progress	Unable to complete project phase II resulting in risk to leach field and dining hall if there are severe winter storms.
2	Camps	Echo Lake Tree Removal	Continuing	$ 200,000	$ -	$ 200,000	In-Progress	
3	Facilities	1947 Center Elevators Assessment	New	$ 55,000	$ -	$ -	Not Started	Seismic assessment. Assessment to estimate the cost to replace the elevators at 1947 Center St. The elevators are old and regularly fail and are inoperable. Replacing the elevators will lower overall maintenance cost and increased reliability.
4	Facilities	Civic Center Plan Phase III	New	$ 300,000	$ -	$ -	In-Progress	The overall plan is underway (multiple phases for the plan itself). Deferring or reallocating these funds would delay and increase overall cost. This is a Tier 1A project (a Council budget referral from Councilmember Wengraf).
5	Facilities	Corp Yard Roll Up Door	New	$ 110,000	$ -	$ -	Not Started	The roll up doors at the equipment maintenance building need to be replaced. The roll up doors are outdated. New automatic doors will help staff productivity and safety.
6	Facilities	Evidence Storage	New	$ 35,000	$ 35,000	$ -	Not Started	The facility is old and needs to be upgraded. This project includes finding a suitable location and providing necessary upgrades.
7	Facilities	Facilities Deferred Maintenance Investment	New	$ 500,000	$ 500,000	$ 500,000	Completed	All FY25 funding is completely spent. Delaying or reallocating FY26 funding will result in increased overall maintenance costs. An investment in regular facilities maintenance will address potential issues before they occur, and result in lower overall cost and increased reliability. Funding from this annual amount is distributed out on a project-by-project basis.
8	Facilities	Generators	New	$ 120,000	$ 110,000	$ -	Not Started	Estimates for generator's are low, cost should be much more now and in future years. City buildings require backup generators for emergencies.

FY 2025 - FY 2026 Capital Program by Funding Source - General Fund

Item #	Program Category	Project Title	New or Continuing	FY 2025 Adopted	FY 2026 Adopted	FY 2025 Actuals to Date	Project Status	Impact if Deferred or Reallocated
9	Facilities	Miscellaneous Deferred/Emergency	New	$ 250,000	$ 200,000	$ 172,693	In-Progress	An investment in regular facilities maintenance will address potential issues before they occur, and result in lower overall cost and increased reliability. If this is the annual amount of funding ($300,000) for repairs and maintenance, we only have $127,307 remaining for FY25.
10	Facilities	NBSC UPGRADES - KITCHEN & DATA	Continuing	$ 160,000	$ 15,000	$156,962	In-Progress	Construction ongoing. The North Berkeley Senior Center is an immediate occupancy shelter. Gas has been removed from the building and now appliances need to be replaced.
11	Facilities	New HVAC at Animal Shelter	New	$ 118,000	$ -	$21,626.43	In-Progress	Budget is for Planning Phase only. Overall project will increase in cost moving forward. This is a Tier 1A project (a budget request from the Neighborhood Services division of the City Manager's Office and project lead is Public Works).
12	Facilities	PSB Upgrades	New	$ 515,000	$ -	$ -	Not Started	Upgrades to the HVAC, electrical, and gym roof. Building is outdated and requires routine upgrades.
13	Facilities	Ratcliff Bldg G Flooring Improvement	New	$ 100,000	$ -	$ -	Not Started	Leaking issues. Project has to be completed. Flooring is damaged and hazardous when moving equipment around.
14	Facilities	Roof Replacement	New	$ 200,000	$ 200,000	$ -	Not Started	Replacement of Fire station #4. Projected start date in September 2025. Regular roof assessments will result in lower overall cost and increased reliability. A pro-active roof improvement approach will allow to address potential issues before they occur.
15	Information Technology	Phish-Resistant Hardware Authentication Devices (MFA)	New	$ 55,000	$ -	$5,022	In-Progress	If not completed, users will not be able to authenticate at login time without some form of generating a key. This CIP project is to accommodate those who did not wish to use software that could be installed on their phone in which case a hardware security device would be provided. Unused funding for this fiscal year will be encumbered into the next FY's to provide future adequate funding to procure devices as needed.

FY 2025 - FY 2026 Capital Program by Funding Source - General Fund

Item #	Program Category	Project Title	New or Continuing	FY 2025 Adopted	FY 2026 Adopted	FY 2025 Actuals to Date	Project Status	Impact if Deferred or Reallocated
16	Other Infrastructure	ADA Transition Plan Implementation	New	$ -	$ 250,000	$ -	In-Progress	The City would not have the resources needed to remediate for WCAG compliance documents posted to the website, and the ability to comply with PROWAG and to provide reasonable modifications as required under the ADA would be threatened.
17	Other Infrastructure	Additional Security Cameras at Intersections	New	$ 150,000	$ -	$ -	Not Started	Budget referral from Councilmember Humbert and Councilmember Bartlett.
18	Parks	Citywide Tree Planting	Continuing	$ 75,000	$ 75,000	$ 75,000	Completed	
19	Parks	James Kenney Restroom ADA	New	$ 160,000	$ -	$ 38,900	In-Progress	Unable to do construction, project is bidding.
20	Parks	MLK Jr. Youth Services Center Seismic Retrofit and Renovation	Continuing	$ 110,000	$ -	$ 110,000	In-Progress	Unable to complete construction.
21	Parks	Tom Bates Regional Sports Complex Restroom & Community Space	Continuing	$ -	$ 310,000		In-Progress	Will not have enough project funds for construction.
22	Parks	Tom Bates Turf Replacement – Annual JPA Contribution	Continuing	$ 15,000	$ 15,000	$ 15,000	Completed	
23	Sidewalks	FY25 Sidewalk Repair Program	New	$ 185,000	$ -	$ -	Not Started	Will combine FY25 & FY26 funding into one project, to begin design this Summer/Fall 2025. Deferring or reallocating these funds would delay and increase overall cost.
24	Sidewalks	FY26 Sidewalk Repair Program	New	$ -	$ 185,000	$ -	Not Started	Will combine FY25 & FY26 funding into one project, to begin design this Summer/Fall 2025. Deferring or reallocating these funds would delay and increase overall cost.
25	Streets	Street Rehab PCI Improvements	New	$ 8,487,200	$ 8,741,816	$360,068	In-Progress	Will award contract on 04.29.2025. Project is for Improvement of pavement conditions citywide to help get the PCI to 75, the midrange of “good” condition recommended in the City’s Street Maintenance and Rehabilitation Policy. Deferring or reallocating these funds would delay and increase overall cost.
26	Streets	Street Rehabilitation FY 2025	Continuing	$ 1,925,000	$ -	$75,166	In-Progress	Will award contract on 04.29.2025. Project is for Improvement of pavement conditions citywide to help get the PCI to 75, the midrange of “good” condition recommended in the City’s Street Maintenance and Rehabilitation Policy. Deferring or reallocating these funds would delay and increase overall cost.

FY 2025 - FY 2026 Capital Program by Funding Source - General Fund

Item #	Program Category	Project Title	New or Continuing	FY 2025 Adopted	FY 2026 Adopted	FY 2025 Actuals to Date	Project Status	Impact if Deferred or Reallocated
27	Streets	Street Rehabilitation FY 2026	Continuing	$ 350,000	$ 1,575,000	$ -	In-Progress	Design to kick off soon. This funding will be used in FY25 to start consultant work for the FY26 project. Project is for Improvement of pavement conditions citywide to help get the PCI to 75, the midrange of "good" condition recommended in the City's Street Maintenance and Rehabilitation Policy. Deferring or reallocating these funds would delay and increase overall cost.
28	Streets	Street Rehabilitation FY 2027 - FY 2029	New	$ -	$ 350,000	$ -	Not Started	This funding will be used in FY26 to start consultant work for the FY27 project. If reallocated or delayed would lead to a later start date of construction for the FY27 Rehab project. Project is for Improvement of pavement conditions citywide to help get the PCI to 75, the midrange of "good" condition recommended in the City's Street Maintenance and Rehabilitation Policy. Deferring or reallocating these funds would delay and increase overall cost.
29	Transportation	Addison Bicycle Blvd Ph2	New	$ 85,000	$ -	$ -	In-Progress	Council Budget referral. Significant negative impacts. The funding is currently being used for ongoing safety enhancements/work and maintenance. Deferral would halt progress and potentially lead to safety issues along the corridor.
30	Transportation	Pedestrian Safety on Euclid Ave between Eunice St and Bay View Place	New	$ 70,000	$ -	$ -	In-Progress	Budget referral from Vice Mayor Wengraf, Councilmember Taplin and Councilmember Hahn. Next step IS to evaluate the feasibility of a trash enclosure in the area. A feasibility study indicated a much higher project cost (~$1.3 million).
31	Transportation	Vision Zero Rapid Response on Bicycle Boulevards	New	$ 200,000	$ -	$ -	Not Started	Budget referral from Councilmember Taplin and Councilmember Humbert. Negative impact on our ability to implement quick-build safety improvements on bicycle boulevards, including the identified need at Heinz Avenue and 7th Street. This funding is crucial for immediate mitigation measures/Quick Builds.
	Waterfront	South Cove Seawall Replacement (design)	New	$ 250,000	$ -	$ 209,000	In-Progress	
			TOTAL	**$ 15,080,200**	**$ 12,561,816**			

Rent Stabilization Board

DATE: May 2, 2025

TO: David White, Deputy City Manager
Sharon Friedrichsen, Budget Manager

FROM: Oliver Ehlinger, Staff Attorney (Rent Stabilization Board)

SUBJECT: Rent Board Contracts with the East Bay Community Law Center (EBCLC) and the Eviction Defense Center (EDC)

EDC and EBCLC are two non-profit law firms that primarily provide eviction defense and housing rights enforcement legal services to low-income[1] households in Berkeley. These legal services include counseling tenants on their rights under state and local housing laws, engaging in advocacy and negotiation for clients short of representation, and representation in judicial and administrative proceedings (generally eviction lawsuits in state court). Under a long series of contracts with the Rent Board ("Board"), EDC and EBCLC have provided legal services to a set number of clients annually, and to serve a small subset of these clients in a more extensive manner, such as by providing full representation in a legal proceeding. Additionally, EDC has a separate contract directly with the City to administer rental assistance payments to tenants. The Board does not collect any data on this contract.

Since 2001, the Board has annually authorized funding for both the EDC and the EBCLC. In 2017, the Board found that the need for tenant legal services outpaced the Board's ability to adequately respond to displacement pressures on Berkeley tenants. Therefore, on July 25, 2017, the City Council first approved additional funding for these agencies: $300,000 for fiscal year 2017/18 and $300,000 for fiscal year 2018/19. The Board divided this additional funding equally between the agencies and added it as amendments to the Board's existing contract with EDC and EBCLC. This Council funding, which the Board continues to administer, was earmarked to provide additional assistance to extremely low, very low, low- or moderate-income Berkeley tenants in order to provide counseling and advocacy for tenants facing or threatened with displacement. In fiscal year 19/20, Council again allocated $300,00 for these agencies. This amount increased to $550,000 in fiscal year 20/21 and continued through the end of the current contract cycle that ends June 30, 2025.

The agencies primarily use the funds from the Council and the Board on attorney salaries. EDC has reported that the amount and consistency of this funding have dramatically increased its ability to hire and retain staff. The Board has continued the practice of funding both providers

[1] "Low-income" is defined as a household income of less than 80% of the Area Median Income.

because it has found that the providers have slightly different focuses. EDC mainly assists tenants facing active or imminent evictions, while EBCLC provides assistance to tenants enforcing other legal rights under state law and Berkeley's ordinances.

Under the historical contracts, EBCLC and EDC have reported various metrics to the Board, most notably the number of unique clients served and the level of service provided to each client. EBCLC and EDC report three levels of service: pre-litigation/Counsel and Advice, Limited Scope Representation, and Full or in-depth Representation.

-Pre-litigation or counsel and advice is defined as "in-person or via phone, intake services wherein tenants receive brief advice, information, referrals, and triage," but no further follow-up.

-"Limited Scope Representation" is defined as "providing a tenant with a consultation or series of consultations (including through a clinic intake model), drafting correspondence or legal filings for the client in pro per, or similar legal assistance which does not require the firm to be the client's attorney of record."

-"Full representation" is defined as an attorney from the provider appearing as counsel of record for a tenant in an active judicial or administrative proceeding and in any negotiations leading to such proceedings.

In April 2023, the Board released a new RFP for these services. The new RFP made two changes to the contracts: 1) changed the contract length from one to two years; and 2) added new outcomes-based reporting metrics. The Board asked the providers to track and report "material benefits" that the providers achieved for the subset of clients who received the full representation level of service, including whether a tenant retained their current housing as a result of the representation. A material benefit includes the enforcement of a legal right, additional time to vacate a rental unit in an eviction, a financial award, or a waiver of rental debt. The State Bar requires similar reporting from grantees for civil legal services at the state level.

A summary of these contract metrics is produced below. One note: during the COVID-19 pandemic, EDC developed a letter asserting that a tenant was protected under state and local eviction moratoriums. EDC would issue this letter on behalf of clients who had been served a termination notice to prevent further eviction proceedings and report these cases as Limited Scope Representation. These COVID-19 letters likely account for the significant increase in EDC's Limited Scope cases between 2020 and 2023. Numbers for fiscal year 24/25 are current through March 30, 2025

Table 1: Number of Clients Served and Level of Service Provided: East Bay Community Law Center

Fiscal Year	17/18	18/19	19/20	20/21	21/22	22/23	23/24	24/25
Pre-litigation Services	125	68	108	62	37	49	18	21
Limited Scope Representation	122	190	151	123	121	131	97	94
Full Representation	20	18	20	38	34	40	37	18

Table 2: Number of Eligible, Unique Clients Served and Level of Service Provided: Eviction Defense Center

Fiscal Year	17/18	18/19	19/20	20/21	21/22	22/23	23/24	24/25
Pre-litigation Services	91	226	197	160	161	299	255	104
Limited Scope Representation	194	65	697	922	925	703	479	46
Full Representation	58	40	152	84	154	139	220	160

Table 3: Reported Outcomes for Full Representation Clients: East Bay Community Law Center

Fiscal Year	23/24	24/25
Retained current housing	10	6
Obtained other material benefit	14	12

Table 4: Reported Outcomes for Full Representation Clients: Eviction Defense Center

Fiscal Year	23/24	24/25
Retained current housing	30	24
Obtained other material benefit	25	25

Please let me know if the Rent Board can provide any additional information on these contracts.

EXPENDITURE NON-CONSTRUCTION CONTRACT REVIEW FORM "NEW CONTRACT"

Contract # 32400012 **Vendor #10271**

~~BLR-2023-048201~~

CONTRACTOR NAME: East Bay Community Law Center **Berkeley Business License #** ~~BL-030676~~

Subject of Contract: Community Tenant Legal Services

This contract package contains: **2 Original Contracts (Vital Record and Vendor) in folder** ***The Vital Record contract MUST be in a folder. Vendor copies may be assembled with an Acco-fastener.** ****DocuSign Agreements only require 1 Original (Vital Record) copy.**	**Attached**	**Waiver Attached**	**Not Required**
1. CONTRACT BOILERPLATE	☒		
2. Scope of Services (Exhibit A @ boilerplate)	☒		
3. Payment Provisions (Exhibit B @ boilerplate)	☒		
4. Evidence of Competitive Solicitation OR Waiver by CM or by Council Resolution	☒	☐	☐
5. CERTIFICATIONS			
a. Workforce Composition *(businesses with 5 or more employees)*	☒	☐	☐
b. Nuclear Free Berkeley Disclosure	☒	☐	☐
c. Oppressive States Disclosure *(Exception: Community-based, non-profit organizations)*	☒	☐	☐
d. Sanctuary City Compliance Statement	☒	☐	☐
e. Certification of Compliance with Living Wage Ordinance (LWO): ***use current form on web****	☒	☐	☐
f. Certification of Compliance with Equal Benefits Ordinance: ***use current form on web****	☒	☐	☐
g. Community Agency: Certification of Anti-Lobbying	☐	☐	☒
h. Community Agency: Certification of Drug-Free Workplace	☐	☐	☒
6. Insurance Certificate/s AND Endorsement/s OR Insurance Waiver/s *(originals, not copies)*	☒	☐	☐
7. Authorizing **Rent Board and Council** Resolution # 23-15 and No. 70,936 – N.S.	☒		☐
8. Consultant Contracts: Form 700, Statement of Economic Interests	☐		☒
9. Federally Funded Project Requirement: Debarment status printout (SAM.gov)	☐		☒

Requisition # 1240117b ~~*(Hard copy attached)*~~ **Budget Code** 011-13-131-000-5002-000-444-636110- Amt.$275,000 ✓

Contract Amount $847,210 (423,605 in FY24) 801-13-131-000-0000-000-444-612990- Amt.$148,605 ✓

RSB/Council Approved Amount $ 423,605 _____ Amt._____

Was there any advance payment? No ☒ **Yes** ☐ ..... **If Yes, Advanced Amount $** _____

If Yes, Purchase Order # _____

Routing and signatures:

All elements of the contract package, including information provided above, have been reviewed for completeness and accuracy and evidenced by the following signatures (Project Manager please print name):

1.	Oliver Ehlinger **Project Manager** (PRINT NAME/SIGN)	Rent Board **Department**	981-4924 **Phone No.**	7/13/23 **Date**
2.	Aimee Mueller/A. Mueller **Department Administrative Officer/Accounting** (PRINT NAME/SIGN)	**EXECUTED**		7/14/23 **Date**
3.	DeSeana Williams **Department Head** (PRINT NAME/SIGN)	AUG 01 2023		7/14/23 **Date**
4.	Josh Rosen **Contract Administrator** (PRINT NAME/SIGN)	**APPROVED**		07/27/2023 **Date**
5.	Sharon Friedrichsen **Budget Manager** (PRINT NAME/SIGN)	**VIA EMAIL**		07/31/2023 **Date**

Routing continues to the following persons, *who sign directly on the contract:*

6 ~~**City Manager**~~ ***(City Manager's signature not required on Rent Board contracts.)***

7. **City Clerk:** Destruct Review _____

VC2D 8/2/23

* **For current vendor forms**, go to City of Berkeley website: Vendor Forms & Requirements

Roben, Josh

From: Friedrichsen, Sharon
Sent: Monday, July 31, 2023 8:06 AM
To: Roben, Josh; Rosete, Michelle; Murty, Rama; Dupaya, Maricar C.
Subject: Fwd: New Contract: East Bay Community Law Center (EBCLC)

Josh
Budget Final Approved
Sharon

Sent from my iPhone

Begin forwarded message:

> **From:** "Rosete, Michelle" <mrosete@berkeleyca.gov>
> **Date:** July 31, 2023 at 7:19:29 AM PDT
> **To:** "Friedrichsen, Sharon" <SFriedrichsen@berkeleyca.gov>
> **Cc:** "Murty, Rama" <RMurty@berkeleyca.gov>, "Dupaya, Maricar C." <MDupaya@berkeleyca.gov>
> **Subject: New Contract: East Bay Community Law Center (EBCLC)**
>
> Internal
>
> Budget Initial – APPROVED
>
> Notes:
> Authorizing RSB Res#23-15 and Council Res#70,936: contract with EBCLC for Community Tenant Legal Services
> Contract Amount: $847,210
> Contract Term: July 1, 2023 to June 30,2025
> Requisition#: 12401176 - $423,605 in FY2024 (encumbered account contract method)
> Funding is available in account codes 011-13-131-000-5002-000-444-636110- ($275,000); and
> 801-13-131-000-0000-000-444-612990- ($148,605)
>
> Michelle M. Rosete
> Associate Management Analyst
> City Manager's Office
> Budget and Fiscal Management Division
> Tel. (510) 981-7042
> Email: mrosete@cityofberkeley.info
>
> Work Schedule:
> Remote: Mondays, Wednesdays, & Fridays
> In-Office: Tuesdays & Thursdays

VITAL RECORD

PERSONAL SERVICES CONTRACT

THIS CONTRACT is between the CITY OF BERKELEY RENT BOARD ("BOARD"), an agency in a Charter City organized and existing under the laws of the State of California, and the East Bay Community Law Center ("Contractor"), a non-profit organization doing business at 2921 Adeline Street, Berkeley, CA 94703, who agree as follows:

1. **SCOPE OF SERVICES**

Contractor agrees to perform all services described in Exhibit A, in accordance with its stated terms and conditions. Exhibit A is attached to and made a part of this Contract.

2. **PAYMENT**

a. For services referred to in Section 1, Board will pay Contractor $423,605 per fiscal year for a total amount not to exceed $847,210. Board shall make payments to Contractor in accordance with the provisions described in Exhibit B, which is attached to and made a part of this Contract.

b. Payment to Contractor is conditioned upon availability of funding from the Berkeley City Council. The Board may terminate this Contract at its convenience, upon thirty (30) days written notice to Contractor, if the Berkeley City Council does not transfer to the Board the funds necessary to pay for the services described in this Contract.

3. **TERM**

a. This Contract shall begin on July 1, 2023 and end on June 30, 2025. The Executive Director of the Board may extend the term of this Contract by giving written notice.

b. Either party may terminate this Contract for default upon five (5) days' written notice to the other if the other party has substantially failed to fulfill any of its obligations under this Contract in a timely manner. Board may terminate this Contract at its convenience and without cause upon thirty (30) days written notice to Contractor. Except as provided in this Contract, in no event shall Board be liable for costs incurred by or on behalf of Contractor after the effective date of a notice of termination.

c. A written notice is deemed served when a party sends the notice in an envelope addressed to the other party to this Contract and deposits it with the U.S. Postal Service, first class mail, postage prepaid. For purposes of this Contract, all notices to Board shall be addressed as follows:

Executive Director
Berkeley Rent Stabilization Board
2125 Milvia Street
Berkeley, California 94704

For purposes of this Contract, all notices to Contractor shall be addressed as follows:

Shauna Fujimoto
East Bay Community Law Center
2921 Adeline Street
Berkeley, CA 94703

d. If Board terminates this Contract for convenience before Contractor completes the services in Exhibit A, Contractor shall then be entitled to recover its costs expended up to that point plus a reasonable profit, but no other loss, cost, damage, expense or liability may be claimed, requested or recovered.

4. **INDEMNIFICATION**

Contractor, for itself and its heirs, successors and assigns, agrees to release, defend, indemnify and hold harmless Board, its officers, agents, volunteers and employees from and against any and all claims, demands, liability, damages, lawsuits or other actions, including, but not limited to, personal injury or death or property damage arising out of or in any way connected with Contractor's operations under this Contract, or with the performance of this Contract by Contractor or its officers, employees, partners, directors, subcontractors or agents.

5. **INSURANCE**

a. Contractor shall maintain at all times during the performance of this Contract a commercial general liability insurance policy with a minimum occurrence coverage in the amount of $2,000,000 (two million dollars); an automobile liability insurance policy in the minimum amount of $1,000,000 (one million dollars); and, if any licensed professional performs services under this contract, a professional liability insurance policy in the minimum amount of $1,000,000 to cover any claims arising out of Contractor's performance of services under this Contract. All insurance, except professional liability, shall name the Board, its officers, agents, volunteers and employees as additional insureds and shall provide primary coverage with respect to the Board.

All insurance policies shall: 1) provide that the insurance carrier shall not cancel, terminate or otherwise modify the terms and conditions of said policies except upon thirty (30) days written notice to the Board's Contract Administrator; 2) be evidenced by the original Certificate of Insurance, specifying the required coverage and the insurance carrier's standard additional insured form endorsement; and 3) be approved as to form and sufficiency by the Board's Contract Administrator. **The original insurance certificates and all extensions to the insurance certificates should be sent to the address identified below.**

b. If the commercial general liability insurance referred to above is written on a Claims Made Form then, following termination of this Contract, coverage shall survive for a period of not less than five years. Coverage shall also provide for a retroactive date of placement coinciding with the effective date of this Contract.

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

d. Contractor shall forward all insurance documents to:
Department Name: Rent Stabilization Board
Department Address: 2125 Milvia Street, Berkeley CA 94704
Department Email: sscole@berkeleyca.gov

CONFORMITY WITH LAW AND SAFETY

a. Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal and local governing bodies having jurisdiction over any or all of the scope of services, including all provisions of the Occupational Safety and Health Act of 1979 as amended, all California Occupational Safety and Health Regulations, and all other applicable federal, state, municipal and local safety regulations. All services performed by Contractor must be in accordance with these laws, ordinances, codes and regulations. Contractor shall release, defend, indemnify and hold harmless Board, its officers, agents, volunteers and employees from any and all damages, liability, fines, penalties and consequences from any noncompliance or violation of any laws, ordinances, codes or regulations.

b. If a death, serious personal injury or substantial property damage occurs in connection with the performance of this Contract, Contractor shall immediately notify the Board's Executive Director by telephone. If any accident occurs in connection with this Contract, Contractor shall promptly submit a written report to Board, in such form as the Board may require. This report shall include the following information: 1) name and address of the injured or deceased person(s); 2) name and address of Contractor's subcontractor, if any; 3) name and address of Contractor's liability insurance carrier; and 4) a detailed description of the accident, including whether any of Board's equipment, tools or materials were involved.

c. If a release of hazardous materials or hazardous waste that cannot be controlled occurs in connection with the performance of this Contract, Contractor shall immediately notify the Berkeley Police Department and the City's Health Protection office.

d. Contractor shall not store hazardous materials or hazardous waste within the City of Berkeley without a proper permit from the City.

6. SAFETY DATA SHEETS

a. To comply with the City's Hazard Communication Program, Contractor agrees to submit Safety Data Sheets (SDS) for all "hazardous substances" Contractor intends to use in the performance of work under this Contract in any City facility. "Hazardous substances" are defined as those substances so designated by the Director of Industrial Relations pursuant to the Hazardous Substances Information and Training Act (Labor Code sec. 6360 *et seq.*). The SDS for all products must be submitted to the City before commencing work. The SDS for a particular product must be reviewed and approved by the City's Risk Manager before Contractor may use that product.

b. City will inform Contractor about hazardous substances to which it may be exposed while on the job site and protective measures that can be taken to reduce the possibility of exposure.

7. OWNERSHIP OF DOCUMENTS

a. When this Contract is terminated, Contractor agrees to return to Board all documents, drawings, photographs and other written or graphic material, however produced, that it received from Board, its contractors or agents, in connection with the performance of its services under this Contract. All materials shall be returned in the same condition as received.

b. Contractor grants Board a royalty-free, exclusive and irrevocable license to reproduce, publish, use and to authorize others to do so, all original computer programs, writing, sound recordings, pictorial reproductions, diagrams, charts, computations, drawings

and other works of similar nature produced in the course of the performance of this Contract. Contractor shall not publish any such material without the prior written agreement of the Board.

c. With the prior written approval of Board's Project Manager, Contractor may retain and use copies of its work for reference and as documentation of its experience and capabilities.

8. **NON-DISCRIMINATION**

Contractor hereby agrees to comply with the provisions of Berkeley Municipal Code ("B.M.C.") Chapter 13.26 as amended from time to time. In the performance of this Contract, Contractor agrees as follows:

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

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

9. **INDEPENDENT CONTRACTOR**

a. Contractor shall be deemed at all times to be an independent contractor and shall be wholly responsible for the manner in which Contractor performs the services required of Contractor by the terms of this Contract. Contractor shall be liable for its acts and omissions, and those of its employees and its agents. Nothing contained herein shall be construed as creating an employment, agency or partnership relationship between Board and Contractor.

b. Direction from Board regarding the subject of this Contract shall be construed as providing for direction as to policy and the result of Contractor's Work only and not as to the means or methods by which such a result is obtained.

c. Except as expressly provided in this Contract, nothing in this Contract shall operate to confer rights or benefits on persons or entities not party to this Contract.

d. Payment of any taxes, including California Sales and use Taxes, levied upon this Contract, the transaction, or the services or goods delivered pursuant hereto, shall be the obligation of Contractor.

10. **CONFLICT OF INTEREST PROHIBITED**

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

b. In accordance with Government Code section 1090 and the Political Reform Act, Government Code section 87100 *et seq.*, no person who is a director, officer, partner, trustee, employee or consultant of the Contractor, or immediate family member of any of the

preceding, shall make or participate in a decision made by the City or a City board, commission or committee, if it is reasonably foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or Contractor.

c. Interpretation of this section shall be governed by the definitions and provisions used in the Political Reform Act, Government Code section 87100 *et seq.*, its implementing regulations, manuals and codes, Government Code section 1090, Berkeley City Charter section 36 and B.M.C. Chapter 3.64.

11. **NUCLEAR FREE BERKELEY**

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

12. **OPPRESSIVE STATES CONTRACTING PROHIBITION**

a. In accordance with Resolution Nos. 59,853-N.S., 60,382-N.S., and 70,606-N.S., Contractor certifies that it has no contractual relations with, and agrees during the term of this Contract to forego contractual relations to provide personal services to, the following entities:

(1) The governing regime in any Oppressive State.
(2) Any business or corporation organized under the authority of the governing regime of any Oppressive State.
(3) Any individual, firm, partnership, corporation, association, or any other commercial organization, and including parent-entities and wholly-owned subsidiaries (to the extent that their operations are related to the purpose of its contract with the City), for the express purpose of assisting in business operations or trading with any public or private entity located in any Oppressive State.

b. For purposes of this Contract, the Tibet Autonomous Region, the provinces of Ado, Kham, and U-Tsang; and Burma (Myanmar) shall be deemed oppressive states.

c. Contractor's failure to comply with this section shall constitute a default of this Contract and City may terminate this Contract pursuant to Section 3. In the event that the City terminates Contractor due to a default under this provision, City may deem Contractor a non-responsible bidder for not more than five (5) years from the date this Contract is terminated.

13. **SANCTUARY CITY CONTRACTING**

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

a. "Data Broker" means either of the following:

i. The collection of information, including personal information about consumers, from a wide variety of sources for the purposes of reselling such information to their customers, which include

both private-sector business and government agencies;

ii. The aggregation of data that was collected for another purpose from that for which it is ultimately used.

b. "Extreme Vetting" means data mining, threat modeling, predictive risk analysis, or other similar services. Extreme Vetting does not include:

i. The City's computer-network health and performance tools;

ii. Cybersecurity capabilities, technologies and systems used by the City of Berkeley Department of Information Technology to predict, monitor for, prevent, and protect technology infrastructure and systems owned and operated by the City of Berkeley from potential cybersecurity events and cyber-forensic based investigations and prosecutions of illegal computer-based activity.

14. RECYCLED PAPER FOR WRITTEN REPORTS

If Contractor is required by this Contract to prepare a written report or study, Contractor shall use recycled paper for said report or study when such paper is available at a cost of not more than ten percent more than the cost of virgin paper, and when such paper is available at the time it is needed. For the purposes of this Contract, recycled paper is paper that contains at least 50% recycled product. If recycled paper is not available, Contractor shall use white paper. Written reports or studies prepared under this Contract shall be printed on both sides of the page whenever practical.

15. BERKELEY LIVING WAGE ORDINANCE

a. Contractor hereby agrees to comply with the provisions of the Berkeley Living Wage Ordinance, B.M.C. Chapter 13.27. If Contractor is currently subject to the Berkeley Living Wage Ordinance, as indicated by the Living Wage Certification form, attached hereto, Contractor will be required to provide all eligible employees with City mandated minimum compensation during the term of this Contract, as defined in B.M.C. Chapter 13.27, as well as comply with the terms enumerated herein. Contractor expressly acknowledges that, even if Contractor is not currently subject to the Living Wage Ordinance, cumulative contracts with City may subject Contractor to the requirements under B.M.C. Chapter 13.27 in subsequent contracts.

b. If Contractor is currently subject to the Berkeley Living Wage Ordinance, Contractor shall be required to maintain monthly records of those employees providing service under the Contract. These records shall include the total number of hours worked, the number of hours spent providing service under this Contract, the hourly rate paid, and the amount paid by Contractor for health benefits, if any, for each of its employees providing services under the Contract. These records are expressly subject to the auditing terms described in Section 17.

c. If Contractor is currently subject to the Berkeley Living Wage Ordinance, Contractor shall include the requirements thereof, as defined in B.M.C. Chapter 13.27, in any and all subcontracts in which Contractor engages to execute its responsibilities under this Contract. All subcontractor employees who spend 25% or more of their compensated time engaged in work directly related to this Contract shall be entitled to a living wage, as described in B.M.C. Chapter 13.27 and herein.

d. If Contractor fails to comply with the requirements of this Section, the City shall have the rights and remedies described in this Section, in addition to any rights and remedies provided by law or equity.

Contractor's failure to comply with this Section shall constitute a material breach of the Contract, upon which City may terminate this Contract pursuant to Section 3. In the event that City terminates Contractor due to a default under this provision, City may deem Contractor a non-responsible bidder for not more than five (5) years from the date this Contract is terminated.

In addition, at City's sole discretion, Contractor may be responsible for liquidated damage in the amount of $50 per employee per day for each and every instance of an underpayment to an employee. It is mutually understood and agreed that Contractor's failure to pay any of its eligible employees at least the applicable living wage rate will result in damages being sustained by the City; that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damage set forth herein is the nearest and most exact measure of damage for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty or forfeiture for Contractor's breach. City may deduct any assessed liquidated damages from any payments otherwise due Contractor.

16. **BERKELEY EQUAL BENEFITS ORDINANCE**

a. Contractor hereby agrees to comply with the provisions of the Berkeley Equal Benefits Ordinance, B.M.C. Chapter 13.29. If Contractor is currently subject to the Berkeley Equal Benefits Ordinance, as indicated by the Equal Benefits Certification form, attached hereto, Contractor will be required to provide all eligible employees with City mandated equal benefits, as defined in B.M.C. Chapter 13.29, during the term of this contract, as well as comply with the terms enumerated herein.

b. If Contractor is currently or becomes subject to the Berkeley Equal Benefits Ordinance, Contractor agrees to provide the City with all records the City deems necessary to determine compliance with this provision. These records are expressly subject to the auditing terms described in Section 17 of this contract.

c. If Contractor fails to comply with the requirements of this Section, City shall have the rights and remedies described in this Section, in addition to any rights and remedies provided by law or equity.

Contractor's failure to comply with this Section shall constitute a material breach of the Contract, upon which City may terminate this contract pursuant to Section 3. In the event the City terminates this contract due to a default by Contractor under this provision, the City may deem Contractor a non-responsible bidder for not more than five (5) years from the date this Contract is terminated.

In addition, at City's sole discretion, Contractor may be responsible for liquidated damages in the amount of $50.00 per employee per day for each and every instance of violation of this Section. It is mutually understood and agreed that Contractor's failure to provide its employees with equal benefits will result in damages being sustained by City; that the nature and amount of these damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein is the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty or forfeiture for Contractor's breach. City may deduct any assessed liquidated damages from any payments otherwise due Contractor.

17. **AUDIT**

Pursuant to Section 61 of the Berkeley City Charter, the City Auditor's Office may conduct an audit of Contractor's financial, performance and compliance records maintained in connection with the operations and services performed under this Contract. In the event of such audit, Contractor agrees to provide the City Auditor with reasonable access to Contractor's employees and make all such financial, performance and compliance records available to the Auditor's Office. City agrees to provide Contractor an opportunity to discuss and respond to any findings before a final audit report is filed.

18. **SETOFF AGAINST DEBTS**

Contractor agrees that City may deduct from any payments due to Contractor under this Contract any monies that contractor owes City under any ordinance, contract or resolution for any unpaid taxes, fees, licenses, unpaid checks or other amounts.

19. **CONFIDENTIALITY OF INFORMATION**

Contractor understands and agrees that, in the performance of the services under this Contract or in the contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by Board and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to Board. Contractor agrees that all information disclosed by Board to Contractor shall be held in confidence and used only in performance of the Contract. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent consultant would use to protect its own proprietary data.

20. **PREVAILING WAGES**

Certain labor categories under this contract may be subject to prevailing wages as identified in the State of California Labor Code commencing with Sections 1720 et. seq. and 1770 et. seq. These labor categories, when employed for any "work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work," constitute a "Public Work" within the definition of Section 1720(a)(1) of the California Labor Code requiring payment of prevailing wages. In performing its obligations under this contract, Contractor is solely responsible to determine which, if any, of the work is governed by a labor category pursuant to California Labor Code sections 1720 et. seq. and 1770 et. seq. and pay the pertinent prevailing wage. Contractor shall defend, indemnify and hold harmless Board concerning any liability arising out of Labor Code section 1720 et. seq. and 1770 et. seq.

21. **GOVERNING LAW**

This Contract shall be deemed to have been executed in Alameda County. The formation, interpretation and performance of this Contract shall be governed by the laws of the State of California, excluding its conflict of laws rules. Venue for all litigation relative to the formation, interpretation and performance of this Contract shall be in Alameda County, California.

22. **AMENDMENTS**

The terms and conditions of this Contract shall not be altered or otherwise modified except by a written amendment to this Contract executed by Board and Contractor.

23. **ENTIRE CONTRACT**

a. The terms and conditions of this Contract, all exhibits attached and any documents expressly incorporated by reference represent the entire Contract between the parties with respect to the subject matter of this Contract. This Contract shall supersede any and all prior contracts, oral or written, regarding the subject matter between Board and Contractor. No other contract, statement, or promise relating to the subject matter of this Contract shall be valid or binding except by a written amendment to this Contract.

b. If any conflicts arise between the terms and conditions of this Contract and the terms and conditions of the attached exhibits or any documents expressly incorporated, the terms and conditions of this Contract shall control.

24. **SEVERABILITY**

If any part of this Contract or the application thereof is declared invalid for any reason, such invalidity shall not affect the other provisions of this Contract which can be given effect without the invalid provision or application, and to this end the provisions of this Contract are declared to be severable.

25. **WAIVER**

Failure of Board to insist on strict performance shall not constitute a waiver of any of the provisions of this Contract or a waiver of any other default of Contractor.

26. **ASSIGNMENT**

Contractor may not assign this Contract without the prior written consent of the City, except that Contractor may assign its right to any money due or to become due hereunder.

27. **EFFECT ON SUCCESSORS AND ASSIGNS**

This Contract shall be binding on and inure to the benefit of the heirs, executors, administrators, successors, and assigns of the parties hereto.

28. **CONSULTANTS TO SUBMIT STATEMENTS OF ECONOMIC INTEREST**

The City's Conflict of Interest Code, Resolution No. 60,788-N.S., as amended, requires consultants who make a governmental decision or act in a staff capacity as defined in 2 Cal. Code of Regs. §18700, as amended from time to time, to disclose conflicts of interest by filing a Statement of Economic Interest (Form 700). Consultants agree to file such statements with the City Clerk at the beginning of the contract period and upon termination of the Contractor's service.

29. **SECTION HEADINGS**

The sections and other headings of this Contract are for convenience of reference only and shall be disregarded in the interpretation of this Contract.

30. **CITY BUSINESS LICENSE, PAYMENT OF TAXES, TAX I.D. NUMBER**

Contractor has obtained a City business license as required by B.M.C. Chapter 9.04, and its license number is written below; or, Contractor is exempt from the provisions of

B.M.C. Chapter 9.04 and has written below the specific B.M.C. section under which it is exempt. Contractor shall pay all state and federal income taxes and any other taxes due. **Contractor certifies under penalty of perjury that the taxpayer identification number written below is correct.**

Business License Number BL-048201
B.M.C. § N/A
Taxpayer ID Number

RECEIVED

JUL 12 2023

Initial: _____
Berkeley Rent Board

IN WITNESS WHEREOF, Board and Contractor have executed this Contract as of the date first mentioned above.

CITY OF BERKELEY

By: _____
DeSeana Williams, Executive Director

Approved By
Board's Legal Unit:

Registered on behalf
of the City Auditor by: _____
Finance Department

_____
Matt Brown, General Counsel

Attest by: _____
Dep City Clerk

CONTRACTOR

Printed Name: Zoe Melissa Polk

By: _____

Title: Executive Director

Tax Identification # _____

Berkeley Business License # BL-048201

Incorporated: Yes ☒ No ☐

Certified Woman Business Enterprise: Yes ☐ No ☒

Certified Minority Business Enterprise: Yes ☐ No ☒

If yes, state ethnicity: _____

Certified Disadvantaged Business Enterprise: Yes ☐ No ☒

EXHIBIT A

SCOPE OF SERVICES

1. Contractor shall provide eviction prevention/anti-displacement services to a minimum of 400 unduplicated Berkeley tenants each fiscal year.

2. Contractor shall provide "in-depth legal representation" in eviction or housing rights matters to at least 150 "low-income" Berkeley tenants during each fiscal year. In such cases, Contractor shall open an ongoing case file and shall provide extensive counseling, negotiation, and/or representation by licensed attorneys in court to contest an eviction or assert an affirmative housing right. "Low-income" is defined as a household having annual income less than 80% of the median household income for Alameda County.

3. Contractor may provide assistance to the balance of Berkeley tenants for each fiscal year through a limited scope assistance legal model. Limited scope assistance may include providing a tenant with a consultation or series of consultations (including through a clinic intake model), drafting correspondence or legal filings for the client in pro per, or similar legal assistance which does not require the firm to be the client's attorney of record.

4. Contractor may provide services to low income tenants who live in units that may be exempt from certain provisions of the Berkeley Rent Control Ordinance, including, but not limited to, Section 8 tenants and Shelter Plus Care tenants, in the following areas:
    a. Berkeley Housing Authority Administrative Hearings
    b. Shelter Plus Care Administrative Hearings
    c. Tenant Protection Ordinance issues
    d. Tenant Buy-out Ordinance issues
    e. Short-Term Rental Ordinance issues
    f. Fair Chance Ordinance issues

5. Prior to providing "in-depth legal representation" as defined in Paragraph 2, Contractor agrees to require each applicant for services to complete an intake form reviewed by the Rent Board that establishes the applicant's eligibility for services under this Contract. Contractor shall maintain this form in the applicant's case file if services are subsequently provided.

6. Contractor agrees to maintain a log of all inquiries for advice or assistance received from Berkeley tenants that provide the date, the address of the rental unit, the issues presented, the services provided, and whether the tenant was a direct referral from the Rent Board. Contractor shall maintain custody of the log of inquiries but shall allow the Rent Board to review the log upon request. Contractor agrees to screen all clients who are a direct referral from the Rent Board for in-depth representation. Contractor also agrees to complete a Quarterly Program Status Report on a form to be agreed upon by Contractor and the Rent Board. Receipt of the Quarterly Program Status Report shall be required prior to any payments made pursuant to the Contract. In addition, the Quarterly Program Status Report, the Contractor shall produce an annual report, which will aggregate the case data the Contractor has reported in the Quarterly Status Report and provide a narrative description of the program progress.

7. In each Quarterly Status Report the Contract shall provide the Rent Board following information for each client Contractor serves under this grant:

    a. Demographic information on each client, including:
        i. Age;
        ii. Gender;
        iii. Race;
        iv. Disability status;
        v. Income level and source; and
        vi. Zip code.
    b. A substantive description of the legal issue.
    c. A description of the level of service the Contractor provided, including:
        i. Legal education in clinic setting;
        ii. Brief advice and counsel;
        iii. Drafting of legal documents or correspondence in pro per;
        iv. Negotiated settlement;
        v. Representation in an administrative proceeding; and
        vi. Representation in a judicial proceeding.
    d. Material benefits achieved for clients for which the Contractor provides "in-depth representation." Material benefits include instances where:
        i. A tenant retains possession of their dwelling unit in the event of a termination notice or Unlawful Detainer action;
        ii. A tenant receives relocation funds, additional time to move, or a waiver or rent in the event of a termination notice or Unlawful Detainer Action;
        iii. An owner makes required repairs to a tenant's unit;
        iv. An owner grants a reasonable accommodation for the tenant;
        v. An owner reduces the rent for a tenant's unit as the result of an unlawful condition at the unit;
        vi. The Contractor provided direct representation in a Rent Board hearing or mediation; and/or
        vii. Other cases in which Contractor's services help enforce a material legal right or stop an unlawful behavior or condition in connection to a client's tenancy.
    e. Whether the client was displaced from their unit during the course of representation;
    f. Whether the client was a direct referral from the Rent Board; and
    g. Whether the case is pending at the time of the Quarterly Report.

    If the Contractor has a data collection practice which collects information that is substantially similar to the information requested in this Paragraph, the Rent Board may choose to substitute any of the above data categories with the data that the Contractor already tracks.

8. During the term of the contract, Contractor may be asked to present on its services for Berkeley tenants to the Rent Board or one of its committees.

9. The Rent Board reserves the right to modify the scope of services of the project.

EXHIBIT B

PAYMENT

GENERAL: Contract is for $423,605 per fiscal year. Total Not to Exceed amount of $847,210.

BILLING: Contractor will submit invoices quarterly for services rendered.

INVOICES: Invoices must be fully itemized, and provide sufficient information for approving payment and audit. Invoices must be accompanied by receipt for services in order for payment to be processed. **Email invoices to Aimee Mueller and cc' Ollie Ehlinger at OEhlinger@berkeleyca.gov**; (List on invoice, Attn: Aimee Mueller, Rent Stabilization Board) and reference the contract number.

Attn: Aimee Mueller
Rent Stabilization Board
2125 Milvia Street
Berkeley, CA 94704
Email: amueller@cityofberkeley.info
Phone: 510-981-4932

PAYMENTS: The Board will make payment to the vendor within 30 days of receipt of a correct, approved and complete invoice.

Notice of Intent to Award

June 8, 2023

Thank you again for your interest in the following Community Tenant Legal Services for the Berkeley Rent Stabilization Board 23-11601-C.

I am pleased to inform you that the Berkeley Rent Stabilization Board has completed its review of proposals and intends to award the contract for this work to the East Bay Community Law Center for the estimated project timeframe of July 1, 2023 through June 30, 2025.

This Notice of Intent to Award is subject to execution of a written contract and, as a result, this Notice does not constitute the formation of a contract between the Berkeley Rent Stabilization Board and the East Bay Community Law Center. Additionally, the East Bay Community Law Center shall not acquire any legal or equitable rights relative to the contract services until a contract containing terms and conditions acceptable to both the Berkeley Rent Stabilization Board and the East Bay Community Law Center is executed.

We are targeting a June 15 Board meeting date to request approval of this contract. After Board approval, we will finalize the contract language and target a date for final signature of June 30.

Thank you for participating in the competitive selection process for this work. Please let me know if you have any questions about this notice and I look forward to connecting with you and your team.

Sincerely,

Oliver Ehlinger
Staff Attorney
Rent Stabilization Board

EXPENDITURE NON-CONSTRUCTION CONTRACT REVIEW FORM "NEW CONTRACT"

Contract # 32400013 **Vendor #17867**

BLR-2023-030676

CONTRACTOR NAME: Collective Legal Services dba The Eviction Defense Center **Berkeley Business License #** BL-030676 ✓

Subject of Contract: Community Tenant Legal Services

This contract package contains: **2 Original Contracts (Vital Record and Vendor) in folder** ***The Vital Record contract MUST be in a folder. Vendor copies may be assembled with an Acco-fastener.** ****DocuSign Agreements only require 1 Original (Vital Record) copy.**	Attached	Waiver Attached	Not Required	
1. CONTRACT BOILERPLATE	☒			
2. Scope of Services (Exhibit A @ boilerplate)	☒			
3. Payment Provisions (Exhibit B @ boilerplate)	☒			
4. Evidence of Competitive Solicitation OR Waiver by CM or by Council Resolution 23-11601-C	☒	☐	☐	
5. CERTIFICATIONS				
a. Workforce Composition *(businesses with 5 or more employees)*	☒	☐	☐	
b. Nuclear Free Berkeley Disclosure	☒	☐	☐	
c. Oppressive States Disclosure *(Exception: Community-based, non-profit organizations)*	☒	☐	☐	
d. Sanctuary City Compliance Statement	☒	☐	☐	
e. Certification of Compliance with Living Wage Ordinance (LWO): ***use current form on web****	☒	☐	☐	
f. Certification of Compliance with Equal Benefits Ordinance: ***use current form on web****	☒	☐	☐	
g. Community Agency: Certification of Anti-Lobbying	☐	☐	☒	
h. Community Agency: Certification of Drug-Free Workplace	☐	☐	☒	
6. Insurance Certificate/s AND Endorsement/s OR Insurance Waiver/s *(originals, not copies)*	☒	☐	☐	
7. Authorizing **Rent Board and Council** Resolutions # 23-14 and No. 70,936 – N.S.	☒		☐	
8. Consultant Contracts: Form 700, Statement of Economic Interests	☐		☒	
9. Federally Funded Project Requirement: Debarment status printout (SAM.gov)	☐		☒	

Requisition # 12400577 ~~*(Hard copy attached)*~~ **Budget Code** 011-13-131-000-5002-000-444-636110- Amt.$275,000 ✓

Contract Amount $871,000 (435,500 in FY24) ✓ 801-13-131-000-0000-000-444-612990- Amt.$160,500 ✓

RSB/Council Approved Amount $ ~~435,500~~ 871,000 _____ Amt._____

Was there any advance payment? No ☒ **Yes** ☐ ..... **If Yes, Advanced Amount $** _____

If Yes, Purchase Order # _____

Routing and signatures:

All elements of the contract package, including information provided above, have been reviewed for completeness and accuracy and evidenced by the following signatures (Project Manager please print name):

1. Oliver Ehlinger — Rent Board — 981-4924 — 7/12/13
   Project Manager (PRINT NAME/SIGN) — **Department** — **Phone No.** — **Date**
2. Aimee Mueller — **Department Administrative Officer/Accounting** (PRINT NAME/SIGN) — **Date** 7/13/23
3. DeSeana Williams — **Department Head** (PRINT NAME/SIGN) — **Date** 7/13/23
4. Josh Roben — **Contract Administrator** (PRINT NAME/SIGN) — **Date** 07/24/2023
5. Sharon Friedkheen — **Budget Manager** (PRINT NAME/SIGN) — **Date** 07/31/2023

EXECUTED AUG 01 2023

APPROVED VIA EMAIL

Routing continues to the following persons, *who sign directly on the contract:*

6. ~~**City Manager**~~ ***(City Manager's signature not required on Rent Board contracts.)***
7. **City Clerk:** Destruct_____ Review _____

VC2D 8/2/23

* **For current vendor forms**, go to City of Berkeley website: Vendor Forms & Requirements

Roben, Josh

From: Friedrichsen, Sharon
Sent: Monday, July 31, 2023 8:43 AM
To: Roben, Josh
Cc: Murty, Rama; Dupaya, Maricar C.; Rosete, Michelle
Subject: FW: New Contract: Collective Legal Services DBA The Eviction Defense Center

Internal

Josh,
Budget Final Approved
Sharon

From: Rosete, Michelle
Sent: Monday, July 31, 2023 8:32 AM
To: Friedrichsen, Sharon <SFriedrichsen@berkeleyca.gov>
Cc: Murty, Rama <RMurty@berkeleyca.gov>; Dupaya, Maricar C. <MDupaya@berkeleyca.gov>
Subject: New Contract: Collective Legal Services DBA The Eviction Defense Center

Internal

Budget Initial – APPROVED

Notes:
Authorizing RSB Res#23-14 and Council Res#70,936: contract with The Eviction Defense Center for eviction prevention/anti-displacement services for Berkeley tenants.
Contract Amount: $871,000
Contract Term: July 1, 2023 to June 30,2025
Requisition#: 12400377 - $435,500 in FY2024 (encumbered account contract method)
Funding is available in account codes 011-13-131-000-5002-000-444-636110- ($275,000); and
801-13-131-000-0000-000-444-612990- ($160,500)

Michelle M. Rosete
Associate Management Analyst
City Manager's Office
Budget and Fiscal Management Division
Tel. (510) 981-7042
Email: mrosete@cityofberkeley.info

Work Schedule:
Remote: Mondays, Wednesdays, & Fridays
In-Office: Tuesdays & Thursdays

VITAL RECORD

PERSONAL SERVICES CONTRACT

THIS CONTRACT is between the CITY OF BERKELEY RENT BOARD ("BOARD"), an agency in a Charter City organized and existing under the laws of the State of California, and COLLECTIVE LEGAL SERVICES, doing business as THE EVICTION DEFENSE CENTER ("Contractor"), a non-profit corporation doing business at 350 Frank Ogawa Plaza, Suite 703, Oakland, CA 94612, who agree as follows:

1. SCOPE OF SERVICES

Contractor agrees to perform all services described in Exhibit A, in accordance with its stated terms and conditions. Exhibit A is attached to and made a part of this Contract.

2. PAYMENT

a. For services referred to in Section 1, Board will pay Contractor $435,500 per fiscal year for a total amount not to exceed $871,000. Board shall make payments to Contractor in accordance with the provisions described in Exhibit B, which is attached to and made a part of this Contract.

b. Payment to Contractor is conditioned upon availability of funding from the Berkeley City Council. The Board may terminate this Contract at its convenience, upon thirty (30) days written notice to Contractor, if the Berkeley City Council does not transfer to the Board the funds necessary to pay for the services described in this Contract.

3. TERM

a. This Contract shall begin on July 1, 2023 and end on June 30, 2025. The Executive Director of the Board may extend the term of this Contract by giving written notice.

b. Either party may terminate this Contract for default upon five (5) days' written notice to the other if the other party has substantially failed to fulfill any of its obligations under this Contract in a timely manner. Board may terminate this Contract at its convenience and without cause upon thirty (30) days written notice to Contractor. Except as provided in this Contract, in no event shall Board be liable for costs incurred by or on behalf of Contractor after the effective date of a notice of termination.

c. A written notice is deemed served when a party sends the notice in an envelope addressed to the other party to this Contract and deposits it with the U.S. Postal Service, first class mail, postage prepaid. For purposes of this Contract, all notices to Board shall be addressed as follows:

Executive Director
Berkeley Rent Stabilization Board
2125 Milvia Street
Berkeley, California 94704.

For purposes of this Contract, all notices to Contractor shall be addressed as follows:

Anne Tamiko Omura, Esq.
The Eviction Defense Center
350 Frank H. Ogawa Plaza, Suite 703

Oakland, CA 94612

d. If Board terminates this Contract for convenience before Contractor completes the services in Exhibit A, Contractor shall then be entitled to recover its costs expended up to that point plus a reasonable profit, but no other loss, cost, damage, expense or liability may be claimed, requested or recovered.

4. **INDEMNIFICATION**

Contractor, for itself and its heirs, successors and assigns, agrees to release, defend, indemnify and hold harmless Board, its officers, agents, volunteers and employees from and against any and all claims, demands, liability, damages, lawsuits or other actions, including, but not limited to, personal injury or death or property damage arising out of or in any way connected with Contractor's operations under this Contract, or with the performance of this Contract by Contractor or its officers, employees, partners, directors, subcontractors or agents.

5. **INSURANCE**

a. Contractor shall maintain at all times during the performance of this Contract a commercial general liability insurance policy with a minimum occurrence coverage in the amount of $2,000,000 (two million dollars); an automobile liability insurance policy in the minimum amount of $1,000,000 (one million dollars); and, if any licensed professional performs services under this contract, a professional liability insurance policy in the minimum amount of $1,000,000 to cover any claims arising out of Contractor's performance of services under this Contract. All insurance, except professional liability, shall name the Board, its officers, agents, volunteers and employees as additional insureds and shall provide primary coverage with respect to the Board.

All insurance policies shall: 1) provide that the insurance carrier shall not cancel, terminate or otherwise modify the terms and conditions of said policies except upon thirty (30) days written notice to the Board's Contract Administrator; 2) be evidenced by the original Certificate of Insurance, specifying the required coverage and the insurance carrier's standard additional insured form endorsement; and 3) be approved as to form and sufficiency by the Board's Contract Administrator. **The original insurance certificates and all extensions to the insurance certificates should be sent to the address identified below.**

b. If the commercial general liability insurance referred to above is written on a Claims Made Form then, following termination of this Contract, coverage shall survive for a period of not less than five years. Coverage shall also provide for a retroactive date of placement coinciding with the effective date of this Contract.

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

d. Contractor shall forward all insurance documents to:
Department Name: Rent Stabilization Board
Department Address: 2125 Milvia Street, Berkeley CA 94704
Department Email: sscole@berkeleyca.gov

6. **CONFORMITY WITH LAW AND SAFETY**

a. Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal and local governing bodies having jurisdiction over any or all of the scope of services, including all provisions of the Occupational Safety and Health Act of 1979 as amended, all California Occupational Safety and Health Regulations, and all other applicable federal, state, municipal and local safety regulations. All services performed by Contractor must be in accordance with these laws, ordinances, codes and regulations. Contractor shall release, defend, indemnify and hold harmless Board, its officers, agents, volunteers and employees from any and all damages, liability, fines, penalties and consequences from any noncompliance or violation of any laws, ordinances, codes or regulations.

b. If a death, serious personal injury or substantial property damage occurs in connection with the performance of this Contract, Contractor shall immediately notify the Board's Executive Director by telephone. If any accident occurs in connection with this Contract, Contractor shall promptly submit a written report to Board, in such form as the Board may require. This report shall include the following information: 1) name and address of the injured or deceased person(s); 2) name and address of Contractor's subcontractor, if any; 3) name and address of Contractor's liability insurance carrier; and 4) a detailed description of the accident, including whether any of Board's equipment, tools or materials were involved.

c. If a release of hazardous materials or hazardous waste that cannot be controlled occurs in connection with the performance of this Contract, Contractor shall immediately notify the Berkeley Police Department and the City's Health Protection office.

d. Contractor shall not store hazardous materials or hazardous waste within the City of Berkeley without a proper permit from the City.

7. **SAFETY DATA SHEETS**

a. To comply with the City's Hazard Communication Program, Contractor agrees to submit Safety Data Sheets (SDS) for all "hazardous substances" Contractor intends to use in the performance of work under this Contract in any City facility. "Hazardous substances" are defined as those substances so designated by the Director of Industrial Relations pursuant to the Hazardous Substances Information and Training Act (Labor Code sec. 6360 *et seq.*). The SDS for all products must be submitted to the City before commencing work. The SDS for a particular product must be reviewed and approved by the City's Risk Manager before Contractor may use that product.

b. City will inform Contractor about hazardous substances to which it may be exposed while on the job site and protective measures that can be taken to reduce the possibility of exposure.

8. **OWNERSHIP OF DOCUMENTS**

a. When this Contract is terminated, Contractor agrees to return to Board all documents, drawings, photographs and other written or graphic material, however produced, that it received from Board, its contractors or agents, in connection with the performance of its services under this Contract. All materials shall be returned in the same condition as received.

b. Contractor grants Board a royalty-free, exclusive and irrevocable license to reproduce, publish, use and to authorize others to do so, all original computer programs, writing, sound recordings, pictorial reproductions, diagrams, charts, computations, drawings

and other works of similar nature produced in the course of the performance of this Contract. Contractor shall not publish any such material without the prior written agreement of the Board.

c. With the prior written approval of Board's Project Manager, Contractor may retain and use copies of its work for reference and as documentation of its experience and capabilities.

9. **NON-DISCRIMINATION**

Contractor hereby agrees to comply with the provisions of Berkeley Municipal Code ("B.M.C.") Chapter 13.26 as amended from time to time. In the performance of this Contract, Contractor agrees as follows:

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

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

10. **INDEPENDENT CONTRACTOR**

a. Contractor shall be deemed at all times to be an independent contractor and shall be wholly responsible for the manner in which Contractor performs the services required of Contractor by the terms of this Contract. Contractor shall be liable for its acts and omissions, and those of its employees and its agents. Nothing contained herein shall be construed as creating an employment, agency or partnership relationship between Board and Contractor.

b. Direction from Board regarding the subject of this Contract shall be construed as providing for direction as to policy and the result of Contractor's Work only and not as to the means or methods by which such a result is obtained.

c. Except as expressly provided in this Contract, nothing in this Contract shall operate to confer rights or benefits on persons or entities not party to this Contract.

d. Payment of any taxes, including California Sales and use Taxes, levied upon this Contract, the transaction, or the services or goods delivered pursuant hereto, shall be the obligation of Contractor.

11. **CONFLICT OF INTEREST PROHIBITED**

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

b. In accordance with Government Code section 1090 and the Political Reform Act, Government Code section 87100 *et seq.*, no person who is a director, officer, partner, trustee, employee or consultant of the Contractor, or immediate family member of any of the

preceding, shall make or participate in a decision made by the City or a City board, commission or committee, if it is reasonably foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or Contractor.

c. Interpretation of this section shall be governed by the definitions and provisions used in the Political Reform Act, Government Code section 87100 *et seq.*, its implementing regulations, manuals and codes, Government Code section 1090, Berkeley City Charter section 36 and B.M.C. Chapter 3.64.

12. **NUCLEAR FREE BERKELEY**

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

13. **OPPRESSIVE STATES CONTRACTING PROHIBITION**

a. In accordance with Resolution Nos. 59,853-N.S., 60,382-N.S., and 70,606-N.S., Contractor certifies that it has no contractual relations with, and agrees during the term of this Contract to forego contractual relations to provide personal services to, the following entities:

(1) The governing regime in any Oppressive State.
(2) Any business or corporation organized under the authority of the governing regime of any Oppressive State.
(3) Any individual, firm, partnership, corporation, association, or any other commercial organization, and including parent-entities and wholly-owned subsidiaries (to the extent that their operations are related to the purpose of its contract with the City), for the express purpose of assisting in business operations or trading with any public or private entity located in any Oppressive State.

b. For purposes of this Contract, the Tibet Autonomous Region, the provinces of Ado, Kham, and U-Tsang; and Burma (Myanmar) shall be deemed oppressive states.

c. Contractor's failure to comply with this section shall constitute a default of this Contract and City may terminate this Contract pursuant to Section 3. In the event that the City terminates Contractor due to a default under this provision, City may deem Contractor a non-responsible bidder for not more than five (5) years from the date this Contract is terminated.

14. **SANCTUARY CITY CONTRACTING**

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

a. "Data Broker" means either of the following:

i. The collection of information, including personal information about consumers, from a wide variety of sources for the purposes of reselling such information to their customers, which include

both private-sector business and government agencies;

ii. The aggregation of data that was collected for another purpose from that for which it is ultimately used.

b. "Extreme Vetting" means data mining, threat modeling, predictive risk analysis, or other similar services. Extreme Vetting does not include:

i. The City's computer-network health and performance tools;

ii. Cybersecurity capabilities, technologies and systems used by the City of Berkeley Department of Information Technology to predict, monitor for, prevent, and protect technology infrastructure and systems owned and operated by the City of Berkeley from potential cybersecurity events and cyber-forensic based investigations and prosecutions of illegal computer-based activity.

15. **RECYCLED PAPER FOR WRITTEN REPORTS**

If Contractor is required by this Contract to prepare a written report or study, Contractor shall use recycled paper for said report or study when such paper is available at a cost of not more than ten percent more than the cost of virgin paper, and when such paper is available at the time it is needed. For the purposes of this Contract, recycled paper is paper that contains at least 50% recycled product. If recycled paper is not available, Contractor shall use white paper. Written reports or studies prepared under this Contract shall be printed on both sides of the page whenever practical.

16. **BERKELEY LIVING WAGE ORDINANCE**

a. Contractor hereby agrees to comply with the provisions of the Berkeley Living Wage Ordinance, B.M.C. Chapter 13.27. If Contractor is currently subject to the Berkeley Living Wage Ordinance, as indicated by the Living Wage Certification form, attached hereto, Contractor will be required to provide all eligible employees with City mandated minimum compensation during the term of this Contract, as defined in B.M.C. Chapter 13.27, as well as comply with the terms enumerated herein. Contractor expressly acknowledges that, even if Contractor is not currently subject to the Living Wage Ordinance, cumulative contracts with City may subject Contractor to the requirements under B.M.C. Chapter 13.27 in subsequent contracts.

b. If Contractor is currently subject to the Berkeley Living Wage Ordinance, Contractor shall be required to maintain monthly records of those employees providing service under the Contract. These records shall include the total number of hours worked, the number of hours spent providing service under this Contract, the hourly rate paid, and the amount paid by Contractor for health benefits, if any, for each of its employees providing services under the Contract. These records are expressly subject to the auditing terms described in Section 17.

c. If Contractor is currently subject to the Berkeley Living Wage Ordinance, Contractor shall include the requirements thereof, as defined in B.M.C. Chapter 13.27, in any and all subcontracts in which Contractor engages to execute its responsibilities under this Contract. All subcontractor employees who spend 25% or more of their compensated time engaged in work directly related to this Contract shall be entitled to a living wage, as described in B.M.C. Chapter 13.27 and herein.

d. If Contractor fails to comply with the requirements of this Section, the City shall have the rights and remedies described in this Section, in addition to any rights and remedies provided by law or equity.

Contractor's failure to comply with this Section shall constitute a material breach of the Contract, upon which City may terminate this Contract pursuant to Section 3. In the event that City terminates Contractor due to a default under this provision, City may deem Contractor a non-responsible bidder for not more than five (5) years from the date this Contract is terminated.

In addition, at City's sole discretion, Contractor may be responsible for liquidated damage in the amount of $50 per employee per day for each and every instance of an underpayment to an employee. It is mutually understood and agreed that Contractor's failure to pay any of its eligible employees at least the applicable living wage rate will result in damages being sustained by the City; that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damage set forth herein is the nearest and most exact measure of damage for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty or forfeiture for Contractor's breach. City may deduct any assessed liquidated damages from any payments otherwise due Contractor.

17. BERKELEY EQUAL BENEFITS ORDINANCE

a. Contractor hereby agrees to comply with the provisions of the Berkeley Equal Benefits Ordinance, B.M.C. Chapter 13.29. If Contractor is currently subject to the Berkeley Equal Benefits Ordinance, as indicated by the Equal Benefits Certification form, attached hereto, Contractor will be required to provide all eligible employees with City mandated equal benefits, as defined in B.M.C. Chapter 13.29, during the term of this contract, as well as comply with the terms enumerated herein.

b. If Contractor is currently or becomes subject to the Berkeley Equal Benefits Ordinance, Contractor agrees to provide the City with all records the City deems necessary to determine compliance with this provision. These records are expressly subject to the auditing terms described in Section 17 of this contract.

c. If Contractor fails to comply with the requirements of this Section, City shall have the rights and remedies described in this Section, in addition to any rights and remedies provided by law or equity.

Contractor's failure to comply with this Section shall constitute a material breach of the Contract, upon which City may terminate this contract pursuant to Section 3. In the event the City terminates this contract due to a default by Contractor under this provision, the City may deem Contractor a non-responsible bidder for not more than five (5) years from the date this Contract is terminated.

In addition, at City's sole discretion, Contractor may be responsible for liquidated damages in the amount of $50.00 per employee per day for each and every instance of violation of this Section. It is mutually understood and agreed that Contractor's failure to provide its employees with equal benefits will result in damages being sustained by City; that the nature and amount of these damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein is the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty or forfeiture for Contractor's breach. City may deduct any assessed liquidated damages from any payments otherwise due Contractor.

18. **AUDIT**

Pursuant to Section 61 of the Berkeley City Charter, the City Auditor's Office may conduct an audit of Contractor's financial, performance and compliance records maintained in connection with the operations and services performed under this Contract. In the event of such audit, Contractor agrees to provide the City Auditor with reasonable access to Contractor's employees and make all such financial, performance and compliance records available to the Auditor's Office. City agrees to provide Contractor an opportunity to discuss and respond to any findings before a final audit report is filed.

19. **SETOFF AGAINST DEBTS**

Contractor agrees that City may deduct from any payments due to Contractor under this Contract any monies that contractor owes City under any ordinance, contract or resolution for any unpaid taxes, fees, licenses, unpaid checks or other amounts.

20. **CONFIDENTIALITY OF INFORMATION**

Contractor understands and agrees that, in the performance of the services under this Contract or in the contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by Board and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to Board. Contractor agrees that all information disclosed by Board to Contractor shall be held in confidence and used only in performance of the Contract. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent consultant would use to protect its own proprietary data.

21. **PREVAILING WAGES**

Certain labor categories under this contract may be subject to prevailing wages as identified in the State of California Labor Code commencing with Sections 1720 et. seq. and 1770 et. seq. These labor categories, when employed for any "work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work," constitute a "Public Work" within the definition of Section 1720(a)(1) of the California Labor Code requiring payment of prevailing wages. In performing its obligations under this contract, Contractor is solely responsible to determine which, if any, of the work is governed by a labor category pursuant to California Labor Code sections 1720 et. seq. and 1770 et. seq. and pay the pertinent prevailing wage. Contractor shall defend, indemnify and hold harmless Board concerning any liability arising out of Labor Code section 1720 et. seq. and 1770 et. seq.

22. **GOVERNING LAW**

This Contract shall be deemed to have been executed in Alameda County. The formation, interpretation and performance of this Contract shall be governed by the laws of the State of California, excluding its conflict of laws rules. Venue for all litigation relative to the formation, interpretation and performance of this Contract shall be in Alameda County, California.

23. **AMENDMENTS**

The terms and conditions of this Contract shall not be altered or otherwise modified except by a written amendment to this Contract executed by Board and Contractor.

24. **ENTIRE CONTRACT**

a. The terms and conditions of this Contract, all exhibits attached and any documents expressly incorporated by reference represent the entire Contract between the parties with respect to the subject matter of this Contract. This Contract shall supersede any and all prior contracts, oral or written, regarding the subject matter between Board and Contractor. No other contract, statement, or promise relating to the subject matter of this Contract shall be valid or binding except by a written amendment to this Contract.

b. If any conflicts arise between the terms and conditions of this Contract and the terms and conditions of the attached exhibits or any documents expressly incorporated, the terms and conditions of this Contract shall control.

25. **SEVERABILITY**

If any part of this Contract or the application thereof is declared invalid for any reason, such invalidity shall not affect the other provisions of this Contract which can be given effect without the invalid provision or application, and to this end the provisions of this Contract are declared to be severable.

26. **WAIVER**

Failure of Board to insist on strict performance shall not constitute a waiver of any of the provisions of this Contract or a waiver of any other default of Contractor.

27. **ASSIGNMENT**

Contractor may not assign this Contract without the prior written consent of the City, except that Contractor may assign its right to any money due or to become due hereunder.

28. **EFFECT ON SUCCESSORS AND ASSIGNS**

This Contract shall be binding on and inure to the benefit of the heirs, executors, administrators, successors, and assigns of the parties hereto.

29. **CONSULTANTS TO SUBMIT STATEMENTS OF ECONOMIC INTEREST**

The City's Conflict of Interest Code, Resolution No. 60,788-N.S., as amended, requires consultants who make a governmental decision or act in a staff capacity as defined in 2 Cal. Code of Regs. §18700, as amended from time to time, to disclose conflicts of interest by filing a Statement of Economic Interest (Form 700). Consultants agree to file such statements with the City Clerk at the beginning of the contract period and upon termination of the Contractor's service.

30. **SECTION HEADINGS**

The sections and other headings of this Contract are for convenience of reference only and shall be disregarded in the interpretation of this Contract.

31. **CITY BUSINESS LICENSE, PAYMENT OF TAXES, TAX I.D. NUMBER**

Contractor has obtained a City business license as required by B.M.C. Chapter 9.04, and its license number is written below; or, Contractor is exempt from the provisions of

B.M.C. Chapter 9.04 and has written below the specific B.M.C. section under which it is exempt. Contractor shall pay all state and federal income taxes and any other taxes due. **Contractor certifies under penalty of perjury that the taxpayer identification number written below is correct.**

Business License Number BL-030676
B.M.C. § N/A
Taxpayer ID Number #

IN WITNESS WHEREOF, Board and Contractor have executed this Contract as of the date first mentioned above.

CITY OF BERKELEY

By: _____
DeSeana Williams, Executive Director

Approved By
Board's Legal Unit

_____
Matt Brown, General Counsel

Registered on behalf
of the City Auditor by: _____
Finance Department

Attest by: _____
City Clerk

CONTRACTOR

Printed Name: ANNE OMURA

By: _____

Title: EXEC. DIR

Tax Identification # _____

Berkeley Business License # BL-030676

Incorporated: Yes ☒ No ☐

Certified Woman Business Enterprise: Yes ☐ No ☒

Certified Minority Business Enterprise: Yes ☐ No ☒

If yes, state ethnicity: _____

Certified Disadvantaged Business Enterprise: Yes ☐ No ☒

EXHIBIT A

SCOPE OF SERVICES

1. Contractor shall provide eviction prevention/anti-displacement services to a minimum of 400 unduplicated Berkeley tenants each fiscal year.

2. Contractor shall provide "in-depth legal representation" in eviction or housing rights matters to at least 150 "low-income" Berkeley tenants during each fiscal year. In such cases, Contractor shall open an ongoing case file and shall provide extensive counseling, negotiation, and/or representation by licensed attorneys in court to contest an eviction or assert an affirmative housing right. "Low-income" is defined as a household having annual income less than 80% of the median household income for Alameda County.

3. Contractor may provide assistance to the balance of Berkeley tenants for each fiscal year through a limited scope assistance legal model. Limited scope assistance may include providing a tenant with a consultation or series of consultations (including through a clinic intake model), drafting correspondence or legal filings for the client in pro per, or similar legal assistance which does not require the firm to be the client's attorney of record.

4. Contractor may provide services to low income tenants who live in units that may be exempt from certain provisions of the Berkeley Rent Control Ordinance, including, but not limited to, Section 8 tenants and Shelter Plus Care tenants, in the following areas:
   a. Berkeley Housing Authority Administrative Hearings
   b. Shelter Plus Care Administrative Hearings
   c. Tenant Protection Ordinance issues
   d. Tenant Buy-out Ordinance issues
   e. Short-Term Rental Ordinance issues
   f. Fair Chance Ordinance issues

5. Prior to providing "in-depth legal representation" as defined in Paragraph 2, Contractor agrees to require each applicant for services to complete an intake form reviewed by the Rent Board that establishes the applicant's eligibility for services under this Contract. Contractor shall maintain this form in the applicant's case file if services are subsequently provided.

6. Contractor agrees to maintain a log of all inquiries for advice or assistance received from Berkeley tenants that provide the date, the address of the rental unit, the issues presented, the services provided, and whether the tenant was a direct referral from the Rent Board. Contractor shall maintain custody of the log of inquiries but shall allow the Rent Board to review the log upon request. Contractor agrees to screen all clients who are a direct referral from the Rent Board for in-depth representation. Contractor also agrees to complete a Quarterly Program Status Report on a form to be agreed upon by Contractor and the Rent Board. Receipt of the Quarterly Program Status Report shall be required prior to any payments made pursuant to the Contract. In addition, the Quarterly Program Status Report, the Contractor shall produce an annual report, which will aggregate the case data the Contractor has reported in the Quarterly Status Report and provide a narrative description of the program progress.

7. In each Quarterly Status Report the Contract shall provide the Rent Board following information for each client Contractor serves under this grant:

    a. Demographic information on each client, including:
        i. Age;
        ii. Gender;
        iii. Race;
        iv. Disability status;
        v. Income level and source; and
        vi. Zip code.
    b. A substantive description of the legal issue.
    c. A description of the level of service the Contractor provided, including:
        i. Legal education in clinic setting;
        ii. Brief advice and counsel;
        iii. Drafting of legal documents or correspondence in pro per;
        iv. Negotiated settlement;
        v. Representation in an administrative proceeding; and
        vi. Representation in a judicial proceeding.
    d. Material benefits achieved for clients for which the Contractor provides "in-depth representation." Material benefits include instances where:
        i. A tenant retains possession of their dwelling unit in the event of a termination notice or Unlawful Detainer action;
        ii. A tenant receives relocation funds, additional time to move, or a waiver or rent in the event of a termination notice or Unlawful Detainer Action;
        iii. An owner makes required repairs to a tenant's unit;
        iv. An owner grants a reasonable accommodation for the tenant;
        v. An owner reduces the rent for a tenant's unit as the result of an unlawful condition at the unit;
        vi. The Contractor provided direct representation in a Rent Board hearing or mediation; and/or
        vii. Other cases in which Contractor's services help enforce a material legal right or stop an unlawful behavior or condition in connection to a client's tenancy.
    e. Whether the client was displaced from their unit during the course of representation;
    f. Whether the client was a direct referral from the Rent Board; and
    g. Whether the case is pending at the time of the Quarterly Report.

    If the Contractor has a data collection practice which collects information that is substantially similar to the information requested in this Paragraph, the Rent Board may choose to substitute any of the above data categories with the data that the Contractor already tracks.

8. During the term of the contract, Contractor may be asked to present on its services for Berkeley tenants to the Rent Board or one of its committees.

9. The Rent Board reserves the right to modify the scope of services of the project.

EXHIBIT B

PAYMENT

GENERAL: Contract is for $435,500 per fiscal year. Total Not to Exceed amount of $871,000.

BILLING: Contractor will submit invoices monthly for services rendered.

INVOICES: Invoices must be fully itemized, and provide sufficient information for approving payment and audit. Invoices must be accompanied by receipt for services in order for payment to be processed. **Email invoices to Aimee Mueller and cc' Ollie Ehlinger at OEhlinger@berkeleyca.gov**; (List on invoice, Attn: Aimee Mueller, Rent Stabilization Board) and reference the contract number.

Attn: Aimee Mueller
Rent Stabilization Board
2125 Milvia Street
Berkeley, CA 94704
Email: amueller@cityofberkeley.info
Phone: 510-981-4932

PAYMENTS: The Board will make payment to the vendor within 30 days of receipt of a correct, approved and complete invoice.

Notice of Intent to Award

June 8, 2023

Thank you again for your interest in the following Community Tenant Legal Services for the Berkeley Rent Stabilization Board 23-11601-C.

I am pleased to inform you that the Berkeley Rent Stabilization Board has completed its review of proposals and intends to award the contract for this work to the Eviction Defense Center for the estimated project timeframe of July 1, 2023 through June 30, 2025.

This Notice of Intent to Award is subject to execution of a written contract and, as a result, this Notice does not constitute the formation of a contract between Berkeley Rent Stabilization Board and the Eviction Defense Center. Additionally, the Eviction Defense Center shall not acquire any legal or equitable rights relative to the contract services until a contract containing terms and conditions acceptable to both Berkeley Rent Stabilization Board and the Eviction Defense Center is executed.

We are targeting a June 15 Board meeting date to request approval of this contract. After Board approval, we will finalize the contract language and target a date for final signature of June 30.

Thank you for participating in the competitive selection process for this work. Please let me know if you have any questions about this notice and I look forward to connecting with you and your team.

Sincerely,

Oliver Ehlinger
Staff Attorney
Berkeley Rent Stabilization Board

NON-DISCRIMINATION/WORKFORCE COMPOSITION FORM FOR NON-CONSTRUCTION CONTRACTS

To assist the City of Berkeley in implementing its Non-Discrimination policy, it is requested that you furnish information regarding your personnel as requested below and return it to the City Department handling your contract:

Organization: EVICTION DEFENSE CENTER

Address: 350 FRANK H. OGAWA PLAZA + 703 OAKLAND CA 94612

Business Lic. #: 030676

Occupational Category: PROFESSIONALS (See reverse side for explanation of terms)	Total Employees		White Employees		Black Employees		Asian Employees		Hispanic Employees		Other Employees	
	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male
Official/Administrators	1	1		1			1					
Professionals	2	2	1	1	1	1						
Technicians												
Protective Service Workers												
Para-Professionals		3		1						2		
Office/Clerical	2						1		1			
Skilled Craft Workers												
Service/Maintenance												
Other (specify)												
Totals:												

Is your business MBE/WBE/DBE certified? Yes: ____ No: X If yes, by what agency? _____

If yes, please specify: Male: ____ Female: ____ Indicate ethnic identifications: _____

Do you have a Non-Discrimination policy? Yes: X No: ____

Signed: _____ Date: 5/17/23

Verified by: _____ Date: _____
City of Berkeley Contract Compliance Officer

Contract Description/Specification No: **Community Tenant Legal Services for the Rent Board/23-11601-C**

Attachment B (page 1)

CITY OF BERKELEY
Nuclear Free Zone Disclosure Form

I (we) certify that:

1. I am (we are) fully cognizant of any and all contracts held, products made or otherwise handled by this business entity, and of any such that are anticipated to be entered into, produced or handled for the duration of its contract(s) with the City of Berkeley. (To this end, more than one individual may sign this disclosure form, if a description of which type of contracts each individual is cognizant is attached.)

2. I (we) understand that Section 12.90.070 of the Nuclear Free Berkeley Act (Berkeley Municipal Code Ch. 12.90; Ordinance No. 5784-N.S.) prohibits the City of Berkeley from contracting with any person or business that knowingly engages in work for nuclear weapons.

3. I (we) understand the meaning of the following terms as set forth in Berkeley Municipal Code Section 12.90.130:

   "Work for nuclear weapons" is any work the purpose of which is the development, testing, production, maintenance or storage of nuclear weapons or the components of nuclear weapons; or any secret or classified research or evaluation of nuclear weapons; or any operation, management or administration of such work.

   "Nuclear weapon" is any device, the intended explosion of which results from the energy released by reactions involving atomic nuclei, either fission or fusion or both. This definition of nuclear weapons includes the means of transporting, guiding, propelling or triggering the weapon if and only if such means is destroyed or rendered useless in the normal propelling, triggering, or detonation of the weapon.

   "Component of a nuclear weapon" is any device, radioactive or non-radioactive, the primary intended function of which is to contribute to the operation of a nuclear weapon (or be a part of a nuclear weapon).

4. Neither this business entity nor its parent nor any of its subsidiaries engages in work for nuclear weapons or anticipates entering into such work for the duration of its contract(s) with the City of Berkeley.

Based on the foregoing, the undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Printed Name: ANNE OMURA Title: EXEC DIR

Signature: _____ Date: 5/17/23

Business Entity: EVICTION DEFENSE CENTER

Contract Description/Specification No: **Community Tenant Legal Services for the Rent Board/23-11601-C**

Attachment C

CITY OF BERKELEY
Oppressive States Compliance Statement

The undersigned, an authorized agent of THE EVICTION DEFENSE CENTER (hereafter "Vendor"), has had an opportunity to review the requirements of Berkeley City Council Resolution Nos. 59,853-N.S., 60,382-N.S., and 70,606-N.S., (hereafter "Resolutions"). Vendor understands and agrees that the City may choose with whom it will maintain business relations and may refrain from contracting with those Business Entities which maintain business relationships with morally repugnant regimes. Vendor understands the meaning of the following terms used in the Resolution:

"Business Entity" means "any individual, firm, partnership, corporation, association or any other commercial organization, including parent-entities and wholly-owned subsidiaries" (to the extent that their operations are related to the purpose of the contract with the City).

"Oppressive State" means: **Tibet Autonomous Region and the Provinces of Ado, Kham and U-Tsang; and Burma (Myanmar)**

"Personal Services" means "the performance of any work or labor and shall also include acting as an independent contractor or providing any consulting advice or assistance, or otherwise acting as an agent pursuant to a contractual relationship."

Contractor understands that it is not eligible to receive or retain a City contract if at the time the contract is executed, or at any time during the term of the contract it provides Personal Services to:

a. The governing regime in any Oppressive State.
b. Any business or corporation organized under the authority of the governing regime of any Oppressive State.
c. Any person for the express purpose of assisting in business operations or trading with any public or private entity located in any Oppressive State.

Vendor further understands and agrees that Vendor's failure to comply with the Resolution shall constitute a default of the contract and the City Manager may terminate the contract and bar Vendor from bidding on future contracts with the City for five (5) years from the effective date of the contract termination.

The undersigned is familiar with, or has made a reasonable effort to become familiar with, Vendor's business structure and the geographic extent of its operations. By executing the Statement, Vendor certifies that it complies with the requirements of the Resolution and that if any time during the term of the contract it ceases to comply, Vendor will promptly notify the City Manager in writing.

Based on the foregoing, the undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Printed Name: ANNE OMURA Title: EXEC. DIR

Signature: _____ Date: 5/17/23

Business Entity: EVICTION DEFENSE CENTER

Contract Description/Specification No: **Community Tenant Legal Services for the Rent Board/23-11601-C**

I am unable to execute this Statement; however, Vendor is exempt under Section VII of the Resolution. I have attached a separate statement explaining the reason(s) Vendor cannot comply and the basis for any requested exemption.

Signature: _____ Date: _____

Sanctuary City Compliance Statement

The undersigned, an authorized agent of THE EVICTION DEFENSE CENTER (hereafter "Contractor"), has had an opportunity to review the requirements of Berkeley Code Chapter 13.105 (hereafter "Sanctuary City Contracting Ordinance" or "SCCO"). Contractor understands and agrees that the City may choose with whom it will maintain business relations and may refrain from contracting with any person or entity that provides Data Broker or Extreme Vetting services to the U.S. Immigration and Customs Enforcement Division of the United States Department of Homeland Security ("ICE"). Contractor understands the meaning of the following terms used in the SCCO:

a. "Data Broker" means either of the following:

i. The collection of information, including personal information about consumers, from a wide variety of sources for the purposes of reselling such information to their customers, which include both private-sector business and government agencies;

ii. The aggregation of data that was collected for another purpose from that for which it is ultimately used.

b. "Extreme Vetting" means data mining, threat modeling, predictive risk analysis, or other similar services." Extreme Vetting does not include:

i. The City's computer-network health and performance tools;
ii. Cybersecurity capabilities, technologies and systems used by the City of Berkeley Department of Information Technology to predict, monitor for, prevent, and protect technology infrastructure and systems owned and operated by the City of Berkeley from potential cybersecurity events and cyber-forensic based investigations and prosecutions of illegal computer-based activity.

Contractor understands that it is not eligible to receive or retain a City contract if at the time the Contract is executed, or at any time during the term of the Contract, it provides Data Broker or Extreme Vetting services to ICE.

Contractor further understands and agrees that Contractor's failure to comply with the SCCO shall constitute a material default of the Contract and the City Manager may terminate the Contract and bar Contractor from bidding on future contracts with the City for five (5) years from the effective date of the contract termination.

By executing this Statement, Contractor certifies that it complies with the requirements of the SCCO and that if any time during the term of the Contract it ceases to comply, Contractor will promptly notify the City Manager in writing. Any person or entity who knowingly or willingly supplies false information in violation of the SCCO shall be guilty of a misdemeanor and up to a $1,000 fine.

Based on the foregoing, the undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 17 day of MAY, 2023, at OAKLAND, California.

Printed Name: ANNE OMURA Title: EXEC. DIR.

Signed: _____ Date: 5/17/23

Business Entity: EVICTION DEFENSE CENTER

Contract Description/Specification No: **Community Tenant Legal Services for the Rent Board/23-11601-C**

CITY OF BERKELEY

Living Wage Certification for Providers of Services

TO BE COMPLETED BY ALL PERSONS OR ENTITIES ENGAGING IN A CONTRACT FOR PERSONAL SERVICES WITH THE CITY OF BERKELEY.

The Berkeley Municipal Code Chapter 13.27, Berkeley's Living Wage Ordinance (LWO), provides that contractors who engage in a specified amount of business with the City (except where specifically exempted) under contracts which furnish services to or for the City in any twelve (12) month period of time shall comply with all provisions of this Ordinance. The LWO requires a City contractor to provide City mandated minimum compensation to all eligible employees, as defined in the Ordinance. In order to determine whether this contract is subject to the terms of the LWO, please respond to the questions below. Please note that the LWO applies to those contracts where the contractor has achieved a cumulative dollar contracting amount with the City. Therefore, even if the LWO is inapplicable to this contract, subsequent contracts may be subject to compliance with the LWO. Furthermore, the contract may become subject to the LWO if the status of the Contractor's employees' changes (i.e., additional employees are hired) so that Contractor falls within the scope of the Ordinance.

Section I.

1. IF YOU ARE A FOR-PROFIT BUSINESS, PLEASE ANSWER THE FOLLOWING QUESTIONS

a. During the previous twelve (12) months, have you entered into contracts, **including the present contract**, bid, or proposal, with the City of Berkeley for a **cumulative amount of $25,000.00 or more?**
YES ____ **NO** ____

If **no**, this contract is NOT subject to the requirements of the LWO, and you may continue to Section II. If **yes**, please continue to question **1(b)**.

b. Do you have six (6) or more employees, including part-time and stipend workers?
YES ____ **NO** ____

If you have answered, "YES" to questions 1(a) and 1(b) this contract IS subject to the LWO. If you responded "NO" to 1(b) this contract IS NOT subject to the LWO. **Please continue to Section II.**

2. IF YOU ARE A NON-PROFIT BUSINESS, AS DEFINED BY SECTION 501(C) OF THE INTERNAL REVENUE CODE OF 1954, PLEASE ANSWER THE FOLLOWING QUESTIONS.

a. During the previous twelve (12) months, have you entered into contracts, including the present contract, bid or proposal, with the City of Berkeley for a cumulative amount of $100,000.00 or more?
YES X **NO** ____

If no, this Contract is NOT subject to the requirements of the LWO, and you may continue to Section II. If yes, please continue to question 2(b).

b. Do you have six (6) or more employees, including part-time and stipend workers?
YES X **NO** ____

If you have answered, "YES" to questions 2(a) and 2(b) this contract IS subject to the LWO. If you responded "NO" to 2(b) this contract IS NOT subject to the LWO. **Please continue to Section II.**

Section II

Please read, complete, and sign the following:

THIS CONTRACT **IS** SUBJECT TO THE LIVING WAGE ORDINANCE. ☒

THIS CONTRACT **IS NOT** SUBJECT TO THE LIVING WAGE ORDINANCE. ☐

Contract Description/Specification No: **Community Tenant Legal Services for the Rent Board/23-11601-C**

Attachment F (page 1)

The undersigned, on behalf of himself or herself individually and on behalf of his or her business or organization, hereby certifies that he or she is fully aware of Berkeley's Living Wage Ordinance, and the applicability of the Living Wage Ordinance, and the applicability of the subject contract, as determined herein. The undersigned further agrees to be bound by all of the terms of the Living Wage Ordinance, as mandated in the Berkeley Municipal Code, Chapter 13.27. If, at any time during the term of the contract, the answers to the questions posed herein change so that Contractor would be subject to the LWO, Contractor will promptly notify the City Manager in writing. Contractor further understands and agrees that the failure to comply with the LWO, this certification, or the terms of the Contract as it applies to the LWO, shall constitute a default of the Contract and the City Manager may terminate the contract and bar Contractor from future contracts with the City for five (5) years from the effective date of the Contract termination. If the contractor is a for-profit business and the LWO is applicable to this contract, the contractor must pay a living wage to all employees who spend 25% or more or their compensated time engaged in work directly related to the contract with the City. If the contractor is a non-profit business and the LWO is applicable to this contract, the contractor must pay a living wage to all employees who spend 50% or more or their compensated time engaged in work directly related to the contract with the City.

These statements are made under penalty of perjury under the laws of the state of California.

Printed Name: ANNE OMURA Title: EXEC. DIR.

Signature: _____ Date: 5/17/23

Business Entity: EVICTION DEFENSE CENTER

Section III

- ** * FOR ADMINISTRATIVE USE ONLY -- PLEASE PRINT CLEARLY * * **

I have reviewed this Living Wage Certification form, in addition to verifying Contractor's total dollar amount contract commitments with the City in the past twelve (12) months, and determined that this Contract (IS) IS NOT (circle one) subject to Berkeley's Living Wage Ordinance.

Rent Board
Department Name

Aimee Mueller
Department Representative

To be completed by Contractor/Vendor

Form EBO-1
CITY OF BERKELEY
CERTIFICATION OF COMPLIANCE WITH EQUAL BENEFITS ORDINANCE

If you are a ***contractor***, return this form to the originating department/project manager. If you are a ***vendor*** (supplier of goods), return this form to the Purchasing Division of the Finance Dept.

d. SECTION 1. CONTRACTOR/VENDOR INFORMATION

Name: EVICTION DEFENSE CENTER			Vendor No.:
Address: 350 FRANK H. OGAWA PL #703	City: OAKLAND	State: CA	ZIP: 94612
Contact Person: ANNE TAMIKO OMURA		Telephone: 510 452 4541	
E-mail Address: TAMIKO23 @ SBCGLOBAL. NET		Fax No.: 510 452 4875	

SECTION 2. COMPLIANCE QUESTIONS

A. The EBO is inapplicable to this contract because the contractor/vendor has no employees.
☐ Yes ☒ No *(If "Yes," proceed to Section 5; if "No", continue to the next question.)*

B. Does your company provide (or make available at the employees' expense) any employee benefits?
☒ Yes ☐ No
If "Yes," continue to Question C.
If "No," proceed to Section 5. (The EBO is not applicable to you.)

C. Does your company provide (or make available at the employees' expense) any benefits to the spouse of an employee? ☐ Yes ☒ No

D. Does your company provide (or make available at the employees' expense) any benefits to the domestic partner of an employee? ☐ Yes ☒ No

If you answered "No" to both **Questions C and D, proceed to Section 5. (The EBO is not applicable to this contract.)** If you answered "Yes" to both **Questions C and D, please continue to Question E.**
If you answered "Yes" **to Question C and** "No" **to Question D, please continue to Section 3.**

E. Are the benefits that are available to the spouse of an employee identical to the benefits that are available to the domestic partner of the employee? ☐ Yes ☐ No

If you answered "Yes," proceed to Section 4. (You are in compliance with the EBO.)
If you answered "No," continue to Section 3.

SECTION 3. PROVISIONAL COMPLIANCE

A. Contractor/vendor is not in compliance with the EBO now but will comply by the following date:

☐ By the first effective date after the first open enrollment process following the contract start date, not to exceed two years, if the Contractor submits evidence of taking reasonable measures to comply with the EBO; or

☐ At such time that administrative steps can be taken to incorporate nondiscrimination in benefits in the Contractor's infrastructure, not to exceed three months; or

☐ Upon expiration of the contractor's current collective bargaining agreement(s).

B. If you have taken all reasonable measures to comply with the EBO but are unable to do so, do you agree to provide employees with a cash equivalent? * ☐ Yes ☐ No

* The cash equivalent is the amount of money your company pays for spousal benefits that are unavailable for domestic partners.

SECTION 4. REQUIRED DOCUMENTATION

At time of issuance of purchase order or contract award, you may be required by the City to provide documentation (copy of employee handbook, eligibility statement from your plans, insurance provider statements, etc.) to verify that you do not discriminate in the provision of benefits.

SECTION 5. CERTIFICATION

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I am authorized to bind this entity contractually. By signing this certification, I further agree to comply with all additional obligations of the Equal Benefits Ordinance that are set forth in the Berkeley Municipal Code and in the terms of the contract or purchase order with the City.

Executed this 17 day of MAY, in the year 2023, at OAKLAND (City), CA (State)

ANNE OMURA
Name (please print)

Signature

EXEC. DIR.
Title

Federal ID or Social Security Number

FOR CITY OF BERKELEY USE ONLY

☐ Non-Compliant (The City may not do business with this contractor/vendor)

☐ One-Person Contractor/Vendor ☐ Full Compliance ☐ Reasonable Measures

☐ Provisional Compliance Category, Full Compliance by Date: _____

Staff Name (*Sign and Print*): _____ Date: _____

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 05/18/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: David Kessler	
NLADA Service Corporation	PHONE (A/C, No, Ext): 202.452.9870	FAX (A/C, No): 202.452.9879
1901 Pennsylvania Ave, NW, Suite 500	E-MAIL ADDRESS: d.kessler@nlada.org	
Washington, DC 20006	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: NLADA Mutual Insurance Co., A Risk Retention	
INSURED	INSURER B: Group	17336
Collective Legal Services, The Eviction Defense Center	INSURER C:	
350 Frank Ogawa Plaza, Suite 703,	INSURER D:	
Oakland, CA 94612	INSURER E:	
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	GENERAL LIABILITY						EACH OCCURRENCE	$
	☐ COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
	☐ ☐ CLAIMS-MADE ☐ OCCUR						MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
							GENERAL AGGREGATE	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG	$
	☐ POLICY ☐ PRO-JECT ☐ LOC							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	☐ ANY AUTO						BODILY INJURY (Per person)	$
	☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	☐ HIRED AUTOS ☐ NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
								$
	☐ UMBRELLA LIAB ☐ OCCUR						EACH OCCURRENCE	$
	☐ EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE	$
	☐ DED ☐ RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N						☐ WC STATU-TORY LIMITS ☐ OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ N/A (Mandatory in NH)						E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
A	Lawyers Professional Liability			LPL100520-00	07/07/2023	07/07/2024	$1,000,000 each claim $1,000,000 in the aggregate	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER

City of Berkeley Rent Stabilization Board

2125 Milvia Street

Berkeley, CA 94704

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

David Kessler

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ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
05/15/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Leslie Downs	
DCD Financial & Insurance Services 1123 Soquel Ave. Santa Cruz CA 95062	PHONE (A/C, No, Ext): (831) 423-8542	FAX (A/C, No): (831) 423-5714
	E-MAIL ADDRESS: ldowns@dcdis.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Sentinel Insurance Company LTD	11000
INSURED Collective Legal Services 350 Frank Ogawa Plaza Ste 703 Oakland CA 94612	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** CL234500436 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [ ] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [ ] PRO-JECT [ ] LOC [ ] OTHER:	Y		57SBAGH1649	05/29/2023	05/29/2024	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG $	$ 2,000,000 $ 1,000,000 $ 10,000 $ 2,000,000 $ 4,000,000 $ 4,000,000 $
A	AUTOMOBILE LIABILITY [X] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY			57SBAGH1649	05/29/2023	05/29/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) $	$ 2,000,000 $ $ $ $
	[ ] UMBRELLA LIAB [ ] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $						EACH OCCURRENCE AGGREGATE $	$ $ $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [ ] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A					[ ] PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ $ $
A	Employee Dishonesty - Crime			57SBAGH16494	05/29/2023	05/29/2024	Limit Ded	$1,000,000 $1,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Berkeley and Berkeley Residential Rent Stabilization Board are named as additional insured with respects to the operations of the named insured.

CERTIFICATE HOLDER

City Of Berkeley Rent Stabilization Board
2125 Milvia Street
Berkeley CA 94704

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Marco Martinez

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Policy ## 57SBAGH1649

QUICK REFERENCE
BUSINESS LIABILITY COVERAGE FORM
READ YOUR POLICY CAREFULLY

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BUSINESS LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section **C.** - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **G.** - Liability And Medical Expenses Definitions.

A. COVERAGES

1. BUSINESS LIABILITY COVERAGE (BODILY INJURY, PROPERTY DAMAGE, PERSONAL AND ADVERTISING INJURY)

Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury", "property damage" or "personal and advertising injury" to which this insurance does not apply.

We may, at our discretion, investigate any "occurrence" or offense and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in Section **D.** - Liability And Medical Expenses Limits Of Insurance; and

(2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments, settlements or medical expenses to which this insurance applies.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Coverage Extension - Supplementary Payments.

b. This insurance applies:

(1) To "bodily injury" and "property damage" only if:

(a) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

(b) The "bodily injury" or "property damage" occurs during the policy period; and

(c) Prior to the policy period, no insured listed under Paragraph **1.** of Section **C.** – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

(2) To "personal and advertising injury" caused by an offense arising out of your business, but only if the offense was committed in the "coverage territory" during the policy period.

c. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph **1.** of Section **C.** – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

(1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;

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(2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or

(3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

e. **Incidental Medical Malpractice**

(1) "Bodily injury" arising out of the rendering of or failure to render professional health care services as a physician, dentist, nurse, emergency medical technician or paramedic shall be deemed to be caused by an "occurrence", but only if:

(a) The physician, dentist, nurse, emergency medical technician or paramedic is employed by you to provide such services; and

(b) You are not engaged in the business or occupation of providing such services.

(2) For the purpose of determining the limits of insurance for incidental medical malpractice, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

2. **MEDICAL EXPENSES**

Insuring Agreement

a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

(1) On premises you own or rent;

(2) On ways next to premises you own or rent; or

(3) Because of your operations;

provided that:

(1) The accident takes place in the "coverage territory" and during the policy period;

(2) The expenses are incurred and reported to us within three years of the date of the accident; and

(3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

(1) First aid administered at the time of an accident;

(2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and

(3) Necessary ambulance, hospital, professional nursing and funeral services.

3. **COVERAGE EXTENSION - SUPPLEMENTARY PAYMENTS**

a. We will pay, with respect to any claim or "suit" we investigate or settle, or any "suit" against an insured we defend:

(1) All expenses we incur.

(2) Up to $1,000 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.

(3) The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.

(4) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to $500 a day because of time off from work.

(5) All costs taxed against the insured in the "suit".

(6) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.

(7) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

Any amounts paid under **(1)** through **(7)** above will not reduce the limits of insurance.

b. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

(1) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";

(2) This insurance applies to such liability assumed by the insured;

(3) The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";

(4) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interest of the indemnitee;

(5) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and

(6) The indemnitee:

(a) Agrees in writing to:

(i) Cooperate with us in the investigation, settlement or defense of the "suit";

(ii) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";

(iii) Notify any other insurer whose coverage is available to the indemnitee; and

(iv) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(b) Provides us with written authorization to:

(i) Obtain records and other information related to the "suit"; and

(ii) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments.

Notwithstanding the provisions of Paragraph **1.b.(b)** of Section **B.** – Exclusions, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the Limits of Insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

(1) We have used up the applicable limit of insurance in the payment of judgments or settlements; or

(2) The conditions set forth above, or the terms of the agreement described in Paragraph **(6)** above, are no longer met.

B. EXCLUSIONS

1. Applicable To Business Liability Coverage

This insurance does not apply to:

a. Expected Or Intended Injury

(1) "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property; or

(2) "Personal and advertising injury" arising out of an offense committed by, at the direction of or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

b. Contractual Liability

(1) "Bodily injury" or "property damage"; or

(2) "Personal and advertising injury"

for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement.

This exclusion does not apply to liability for damages because of:

(a) "Bodily injury", "property damage" or "personal and advertising injury" that the insured would have in the absence of the contract or agreement; or

(b) "Bodily injury" or "property damage" assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purpose of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage" provided:

(i) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract", and

(ii) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

(1) Causing or contributing to the intoxication of any person;

(2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or

(3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

(1) An "employee" of the insured arising out of and in the course of:

(a) Employment by the insured; or

(b) Performing duties related to the conduct of the insured's business, or

(2) The spouse, child, parent, brother or sister of that "employee" as a consequence of (1) above.

This exclusion applies:

(1) Whether the insured may be liable as an employer or in any other capacity; and

(2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

(1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to any insured. However, this subparagraph does not apply to:

(i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

(ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

(b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

(c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

(i) Any insured; or

(ii) Any person or organization for whom you may be legally responsible;

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

(i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or

(e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

(1) A watercraft while ashore on premises you own or rent;

(2) A watercraft you do not own that is:

(a) Less than 51 feet long; and

(b) Not being used to carry persons for a charge;

(3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

(4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;

(5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment"; or

(6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

(1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

(2) The use of "mobile equipment" in, or while in practice or preparation for, a prearranged racing, speed or demolition contest or in any stunting activity.

i. War

"Bodily injury", "property damage" or "personal and advertising injury", however caused, arising, directly or indirectly, out of:

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

j. Professional Services

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional service. This includes but is not limited to:

(1) Legal, accounting or advertising services;

(2) Preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications;

(3) Supervisory, inspection, architectural or engineering activities;

(4) Medical, surgical, dental, x-ray or nursing services treatment, advice or instruction;

(5) Any health or therapeutic service treatment, advice or instruction;

(6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;

(7) Optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;

(8) Optometry or optometric services including but not limited to examination of the eyes and the prescribing, preparation, fitting,demonstration or distribution of ophthalmic lenses and similar products;

(9) Any:

(a) Body piercing (not including ear piercing);

(b) Tattooing, including but not limited to the insertion of pigments into or under the skin; and

(c) Similar services;

(10) Services in the practice of pharmacy; and

(11) Computer consulting, design or programming services, including web site design.

Paragraphs **(4)** and **(5)** of this exclusion do not apply to the Incidental Medical Malpractice coverage afforded under Paragraph **1.e.** in Section **A.** - Coverages.

k. Damage To Property

"Property damage" to:

(1) Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

(2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;

(3) Property loaned to you;

(4) Personal property in the care, custody or control of the insured;

(5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

(6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs **(1)**, **(3)** and **(4)** of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate Limit of Insurance applies to Damage To Premises Rented To You as described in Section **D.** - Limits Of Insurance.

Paragraph **(2)** of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs **(3)** and **(4)** of this exclusion do not apply to the use of elevators.

Paragraphs **(3)**, **(4)**, **(5)** and **(6)** of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraphs **(3)** and **(4)** of this exclusion do not apply to "property damage" to borrowed equipment while not being used to perform operations at a job site.

Paragraph **(6)** of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

l. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

m. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

n. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

(1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or

(2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

o. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

(1) "Your product";

(2) "Your work"; or

(3) "Impaired property";

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

p. Personal And Advertising Injury

"Personal and advertising injury":

(1) Arising out of oral, written or electronic publication of material, if done by or at the direction of the insured with knowledge of its falsity;

(2) Arising out of oral, written or electronic publication of material whose first publication took place before the beginning of the policy period;

(3) Arising out of a criminal act committed by or at the direction of the insured;

(4) Arising out of any breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement";

(5) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";

(6) Arising out of the wrong description of the price of goods, products or services;

(7) Arising out of any violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, service mark or other designation of origin or authenticity.

However, this exclusion does not apply to infringement, in your "advertisement", of

(a) Copyright;

(b) Slogan, unless the slogan is also a trademark, trade name, service mark or other designation of origin or authenticity; or

(c) Title of any literary or artistic work;

(8) Arising out of an offense committed by an insured whose business is:

(a) Advertising, broadcasting, publishing or telecasting;

(b) Designing or determining content of web sites for others; or

(c) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **a.**, **b.** and **c.** under the definition of "personal and advertising injury" in Section **G.** – Liability And Medical Expenses Definitions.

For the purposes of this exclusion, placing an "advertisement" for or linking to others on your web site, by itself, is not considered the business of advertising, broadcasting, publishing or telecasting;

(9) Arising out of an electronic chat room or bulletin board the insured hosts, owns, or over which the insured exercises control;

(10) Arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers;

(11) Arising out of the violation of a person's right of privacy created by any state or federal act.

However, this exclusion does not apply to liability for damages that the insured would have in the absence of such state or federal act;

(12) Arising out of:

(a) An "advertisement" for others on your web site;

(b) Placing a link to a web site of others on your web site;

(c) Content from a web site of others displayed within a frame or border on your web site. Content includes information, code, sounds, text, graphics or images; or

(d) Computer code, software or programming used to enable:

(i) Your web site; or

(ii) The presentation or functionality of an "advertisement" or other content on your web site;

(13) Arising out of a violation of any anti-trust law;

(14) Arising out of the fluctuation in price or value of any stocks, bonds or other securities; or

(15) Arising out of discrimination or humiliation committed by or at the direction of any "executive officer", director, stockholder, partner or member of the insured.

q. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data".

r. Employment-Related Practices

"Bodily injury" or "personal and advertising injury" to:

(1) A person arising out of any:

(a) Refusal to employ that person;

(b) Termination of that person's employment; or

(c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or

(2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to the person at whom any of the employment-related practices described in Paragraphs **(a)**, **(b)**, or **(c)** above is directed.

This exclusion applies:

(1) Whether the insured may be liable as an employer or in any other capacity; and

(2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

s. Asbestos

(1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the "asbestos hazard".

(2) Any damages, judgments, settlements, loss, costs or expenses that:

(a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";

(b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or

(c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

t. Violation Of Statutes That Govern E-Mails, Fax, Phone Calls Or Other Methods Of Sending Material Or Information

"Bodily injury", "property damage", or "personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

(1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;

(2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or

(3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

Damage To Premises Rented To You – Exception For Damage By Fire, Lightning or Explosion

Exclusions **c.** through **h.** and **k.** through **o.** do not apply to damage by fire, lightning or explosion to premises rented to you or temporarily occupied by you with permission of the owner. A separate Limit of Insurance applies to this coverage as described in Section **D.** - Liability And Medical Expenses Limits Of Insurance.

2. **Applicable To Medical Expenses Coverage**

   We will not pay expenses for "bodily injury":

   a. **Any Insured**

      To any insured, except "volunteer workers".

   b. **Hired Person**

      To a person hired to do work for or on behalf of any insured or a tenant of any insured.

   c. **Injury On Normally Occupied Premises**

      To a person injured on that part of premises you own or rent that the person normally occupies.

   d. **Workers' Compensation And Similar Laws**

      To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

   e. **Athletics Activities**

      To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.

   f. **Products-Completed Operations Hazard**

      Included with the "products-completed operations hazard".

   g. **Business Liability Exclusions**

      Excluded under Business Liability Coverage.

C. WHO IS AN INSURED

1. If you are designated in the Declarations as:

   a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.

   b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.

   c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.

   d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

   e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

   a. **Employees And Volunteer Workers**

      Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

      However, none of these "employees" or "volunteer workers" are insureds for:

      (1) "Bodily injury" or "personal and advertising injury":

         (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;

         (b) To the spouse, child, parent, brother or sister of that co-"employee" or that "volunteer worker" as a consequence of Paragraph **(1)(a)** above;

         (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs **(1)(a)** or **(b)** above; or

         (d) Arising out of his or her providing or failing to provide professional health care services.

         If you are not in the business of providing professional health care services, Paragraph **(d)** does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such services.

      (2) "Property damage" to property:

         (a) Owned, occupied or used by,

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

b. **Real Estate Manager**

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

c. **Temporary Custodians Of Your Property**

Any person or organization having proper temporary custody of your property if you die, but only:

(1) With respect to liability arising out of the maintenance or use of that property; and

(2) Until your legal representative has been appointed.

d. **Legal Representative If You Die**

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this insurance.

e. **Unnamed Subsidiary**

Any subsidiary and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of this Coverage Part.

The insurance afforded herein for any subsidiary not shown in the Declarations as a named insured does not apply to injury or damage with respect to which an insured under this insurance is also an insured under another policy or would be an insured under such policy but for its termination or upon the exhaustion of its limits of insurance.

3. **Newly Acquired Or Formed Organization**

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

b. Coverage under this provision does not apply to:

(1) "Bodily injury" or "property damage" that occurred; or

(2) "Personal and advertising injury" arising out of an offense committed

before you acquired or formed the organization.

4. **Operator Of Mobile Equipment**

With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

a. "Bodily injury" to a co-"employee" of the person driving the equipment; or

b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

5. **Operator of Nonowned Watercraft**

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or

b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

6. **Additional Insureds When Required By Written Contract, Written Agreement Or Permit**

The person(s) or organization(s) identified in Paragraphs **a.** through **f.** below are additional insureds when you have agreed, in a written

contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit.

A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

However, no such person or organization is an additional insured under this provision if such person or organization is included as an additional insured by an endorsement issued by us and made a part of this Coverage Part, including all persons or organizations added as additional insureds under the specific additional insured coverage grants in Section **F.** – Optional Additional Insured Coverages.

a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

(1) The insurance afforded to the vendor is subject to the following additional exclusions:

This insurance does not apply to:

(a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;

(b) Any express warranty unauthorized by you;

(c) Any physical or chemical change in the product made intentionally by the vendor;

(d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

(e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

(f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

(g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Subparagraphs **(d)** or **(f)**; or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

b. Lessors Of Equipment

(1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

c. Lessors Of Land Or Premises

(1) Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

(a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or

(b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

d. Architects, Engineers Or Surveyors

(1) Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(a) In connection with your premises; or

(b) In the performance of your ongoing operations performed by you or on your behalf.

(2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

(a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Supervisory, inspection, architectural or engineering activities.

e. Permits Issued By State Or Political Subdivisions

(1) Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

(a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or

(b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

f. Any Other Party

(1) Any other person or organization who is not an insured under Paragraphs **a.** through **e.** above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(a) In the performance of your ongoing operations;

(b) In connection with your premises owned by or rented to you; or

(c) In connection with "your work" and included within the "products-completed operations hazard", but only if

(i) The written contract or written agreement requires you to provide such coverage to such additional insured; and

(ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

(a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to additional insureds are described in Section **D.** – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section **E.** – Liability And Medical Expenses General Conditions.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE

1. The Most We Will Pay

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

a. Insureds;

b. Claims made or "suits" brought; or

c. Persons or organizations making claims or bringing "suits".

2. Aggregate Limits

The most we will pay for:

a. Damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" is the Products-Completed Operations Aggregate Limit shown in the Declarations.

b. Damages because of all other "bodily injury", "property damage" or "personal and advertising injury", including medical expenses, is the General Aggregate Limit shown in the Declarations.

This General Aggregate Limit applies separately to each of your "locations" owned by or rented to you.

"Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway or right-of-way of a railroad.

This General Aggregate limit does not apply to "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of fire, lightning or explosion.

3. Each Occurrence Limit

Subject to **2.a.** or **2.b** above, whichever applies, the most we will pay for the sum of all damages because of all "bodily injury", "property damage" and medical expenses arising out of any one "occurrence" is the Liability and Medical Expenses Limit shown in the Declarations.

The most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses Limit shown in the Declarations.

4. Personal And Advertising Injury Limit

Subject to **2.b.** above, the most we will pay for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization is the Personal and Advertising Injury Limit shown in the Declarations.

5. Damage To Premises Rented To You Limit

The Damage To Premises Rented To You Limit is the most we will pay under Business Liability Coverage for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

6. How Limits Apply To Additional Insureds

The most we will pay on behalf of a person or organization who is an additional insured under this Coverage Part is the lesser of:

a. The limits of insurance specified in a written contract, written agreement or permit issued by a state or political subdivision; or

b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to the Limits of Insurance shown in the Declarations and described in this Section.

If more than one limit of insurance under this policy and any endorsements attached thereto applies to any claim or "suit", the most we will pay under this policy and the endorsements is the single highest limit of liability of all coverages applicable to such claim or "suit". However, this paragraph does not apply to the Medical Expenses limit set forth in Paragraph **3.** above.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

E. LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. Notice Of Occurrence Or Offense

You or any additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

(1) How, when and where the "occurrence" or offense took place;

(2) The names and addresses of any injured persons and witnesses; and

(3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. Notice Of Claim

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

(1) Immediately record the specifics of the claim or "suit" and the date received; and

(2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive a written notice of the claim or "suit" as soon as practicable.

c. Assistance And Cooperation Of The Insured

You and any other involved insured must:

(1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";

(2) Authorize us to obtain records and other information;

(3) Cooperate with us in the investigation, settlement of the claim or defense against the "suit"; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.

d. Obligations At The Insured's Own Cost

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

e. Additional Insured's Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance.

f. Knowledge Of An Occurrence, Offense, Claim Or Suit

Paragraphs **a.** and **b.** apply to you or to any additional insured only when such "occurrence", offense, claim or "suit" is known to:

(1) You or any additional insured that is an individual;

(2) Any partner, if you or an additional insured is a partnership;

(3) Any manager, if you or an additional insured is a limited liability company;

(4) Any "executive officer" or insurance manager, if you or an additional insured is a corporation;

(5) Any trustee, if you or an additional insured is a trust; or

(6) Any elected or appointed official, if you or an additional insured is a political subdivision or public entity.

This Paragraph **f.** applies separately to you and any additional insured.

3. **Financial Responsibility Laws**

   a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.

   b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

4. **Legal Action Against Us**

   No person or organization has a right under this Coverage Form:

   a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or

   b. To sue us on this Coverage Form unless all of its terms have been fully complied with.

   A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

5. **Separation Of Insureds**

   Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

   a. As if each Named Insured were the only Named Insured; and

   b. Separately to each insured against whom a claim is made or "suit" is brought.

6. **Representations**

   a. **When You Accept This Policy**

      By accepting this policy, you agree:

      (1) The statements in the Declarations are accurate and complete;

      (2) Those statements are based upon representations you made to us; and

      (3) We have issued this policy in reliance upon your representations.

   b. **Unintentional Failure To Disclose Hazards**

      If unintentionally you should fail to disclose all hazards relating to the conduct of your business at the inception date of this Coverage Part, we shall not deny any coverage under this Coverage Part because of such failure.

7. **Other Insurance**

   If other valid and collectible insurance is available for a loss we cover under this Coverage Part, our obligations are limited as follows:

   a. **Primary Insurance**

      This insurance is primary except when **b.** below applies. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

   b. **Excess Insurance**

      This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

      (1) **Your Work**

      That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

      (2) **Premises Rented To You**

      That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

      (3) **Tenant Liability**

      That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

      (4) **Aircraft, Auto Or Watercraft**

      If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **A.** – Coverages.

      (5) **Property Damage To Borrowed Equipment Or Use Of Elevators**

      If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion **k.** of Section **A.** – Coverages.

(6) When You Are Added As An Additional Insured To Other Insurance

That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs **(a)** and **(b)** do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

F. OPTIONAL ADDITIONAL INSURED COVERAGES

If listed or shown as applicable in the Declarations, one or more of the following Optional Additional Insured Coverages also apply. When any of these Optional Additional Insured Coverages apply, Paragraph **6.** (Additional Insureds When Required by Written Contract, Written Agreement or Permit) of Section **C.**, Who Is An Insured, does not apply to the person or organization shown in the Declarations. These coverages are subject to the terms and conditions applicable to Business Liability Coverage in this policy, except as provided below:

1. **Additional Insured - Designated Person Or Organization**

   WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

   a. In the performance of your ongoing operations; or

   b. In connection with your premises owned by or rented to you.

2. **Additional Insured - Managers Or Lessors Of Premises**

   a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Designated Person Or Organization; but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Declarations.

   b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

   This insurance does not apply to:

   (1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or

   (2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

3. **Additional Insured - Grantor Of Franchise**

   WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Grantor Of Franchise, but only with respect to their liability as grantor of franchise to you.

4. **Additional Insured - Lessor Of Leased Equipment**

   a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Lessor of Leased Equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

   b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

5. **Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased**

   a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owners Or Other Interests From Whom Land Has Been Leased, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land leased to you and shown in the Declarations.

   b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

   This insurance does not apply to:

   (1) Any "occurrence" that takes place after you cease to lease that land; or

   (2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

6. **Additional Insured - State Or Political Subdivision – Permits**

   a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the state or political subdivision shown in the Declarations as an Additional

Insured – State Or Political Subdivision - Permits, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

(1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or

(2) "Bodily injury" or "property damage" included in the "product-completed operations" hazard.

7. **Additional Insured – Vendors**

a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) (referred to below as vendor) shown in the Declarations as an Additional Insured - Vendor, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

b. The insurance afforded to the vendor is subject to the following additional exclusions:

(1) This insurance does not apply to:

(a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;

(b) Any express warranty unauthorized by you;

(c) Any physical or chemical change in the product made intentionally by the vendor;

(d) Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

(e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

(f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

(g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Subparagraphs **(d)** or **(f)**; or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

8. **Additional Insured – Controlling Interest**

WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Controlling Interest, but only with respect to their liability arising out of:

a. Their financial control of you; or

b. Premises they own, maintain or control while you lease or occupy these premises.

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

9. **Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization**

   a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owner, Lessees Or Contractors, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

      (1) In the performance of your ongoing operations for the additional insured(s); or

      (2) In connection with "your work" performed for that additional insured and included within the "products-completed operations hazard", but only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

   b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to "bodily injury", "property damage" or "personal an advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

      (1) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

      (2) Supervisory, inspection, architectural or engineering activities.

10. **Additional Insured – Co-Owner Of Insured Premises**

    WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or Organization(s) shown in the Declarations as an Additional Insured – Co-Owner Of Insured Premises, but only with respect to their liability as co-owner of the premises shown in the Declarations.

The limits of insurance that apply to additional insureds are described in Section **D.** – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section **E.** – Liability And Medical Expenses General Conditions.

G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS

1. "Advertisement" means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

   a. **(1)** Radio;
      (2) Television;
      (3) Billboard;
      (4) Magazine;
      (5) Newspaper;

   b. The Internet, but only that part of a web site that is about goods, products or services for the purposes of inducing the sale of goods, products or services; or

   c. Any other publication that is given widespread public distribution.

   However, "advertisement" does not include:

   a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or

   b. An interactive conversation between or among persons through a computer network.

2. "Advertising idea" means any idea for an "advertisement".

3. "Asbestos hazard" means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. "Auto" means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

5. "Bodily injury" means physical:

   a. Injury;

   b. Sickness; or

   c. Disease

   sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. "Coverage territory" means:

a. The United States of America (including its territories and possessions), Puerto Rico and Canada;

b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in **a.** above;

c. All other parts of the world if the injury or damage arises out of:

(1) Goods or products made or sold by you in the territory described in **a.** above;

(2) The activities of a person whose home is in the territory described in **a.** above, but is away for a short time on your business; or

(3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory, or in a settlement we agree to.

7. "Electronic data" means information, facts or programs:

a. Stored as or on;

b. Created or used on; or

c. Transmitted to or from

computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

10. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

11. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

a. The repair, replacement, adjustment or removal of "your product" or "your work"; or

b. Your fulfilling the terms of the contract or agreement.

12. "Insured contract" means:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage To Premises Rented To You limit described in Section **D.** – Liability and Medical Expenses Limits of Insurance.

b. A sidetrack agreement;

c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;

d. Any obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

e. An elevator maintenance agreement; or

f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** includes that part of any contract or agreement that indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing.

However, Paragraph **f.** does not include that part of any contract or agreement:

(1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

(a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or

(2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

13. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

14. "Loading or unloading" means the handling of property:

a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";

b. While it is in or on an aircraft, watercraft or "auto"; or

c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

15. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

b. Vehicles maintained for use solely on or next to premises you own or rent;

c. Vehicles that travel on crawler treads;

d. Vehicles, whether self-propelled or not, on which are permanently mounted:

(1) Power cranes, shovels, loaders, diggers or drills; or

(2) Road construction or resurfacing equipment such as graders, scrapers or rollers;

e. Vehicles not described in **a.**, **b.**, **c.**, or **d.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

(1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or

(2) Cherry pickers and similar devices used to raise or lower workers;

f. Vehicles not described in **a.**, **b.**, **c.**, or **d.** above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

(1) Equipment, of at least 1,000 pounds gross vehicle weight, designed primarily for:

(a) Snow removal;

(b) Road maintenance, but not construction or resurfacing; or

(c) Street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

17. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

a. False arrest, detention or imprisonment;

b. Malicious prosecution;

c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that the person occupies, committed by or on behalf of its owner, landlord or lessor;

d. Oral, written or electronic publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;

e. Oral, written or electronic publication of material that violates a person's right of privacy;

f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement";

g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement"; or

h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

18. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

19. "Products-completed operations hazard";

a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

(1) Products that are still in your physical possession; or

(2) Work that has not yet been completed or abandoned. However, "your work" will be deemed to be completed at the earliest of the following times:

(a) When all of the work called for in your contract has been completed.

(b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

(c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

The "bodily injury" or "property damage" must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of "your product" for consumption on premises you own or rent.

b. Does not include "bodily injury" or "property damage" arising out of:

(1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or

(2) The existence of tools, uninstalled equipment or abandoned or unused materials.

20. "Property damage" means:

a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of "occurrence" that caused it.

As used in this definition, "electronic data" is not tangible property.

21. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or

b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

22. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

23. "Volunteer worker" means a person who:

a. Is not your "employee";

b. Donates his or her work;

c. Acts at the direction of and within the scope of duties determined by you; and

d. Is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

24. "Your product":

a. Means:

(1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

(a) You;

(b) Others trading under your name; or

(c) A person or organization whose business or assets you have acquired; and

(2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes:

(1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and

(2) The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

25. "Your work":

a. Means:

(1) Work or operations performed by you or on your behalf; and

(2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes:

(1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and

(2) The providing of or failure to provide warnings or instructions.

CERT HOLDER COPY

NA

STATE COMPENSATION INSURANCE FUND

P.O. BOX 8192, PLEASANTON, CA 94588

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

ISSUE DATE: 06-21-2023

GROUP:
POLICY NUMBER: **1483050-2023**
CERTIFICATE ID: **29**
CERTIFICATE EXPIRES: **02-01-2024**
02-01-2023/02-01-2024

CITY OF BERKELEY RENT STABILIZATION BOARD NA
2125 MILVIA ST
BERKELEY CA 94704-1112

This is to certify that we have issued a valid Workers' Compensation insurance policy in a form approved by the California Insurance Commissioner to the employer named below for the policy period indicated.

This policy is not subject to cancellation by the Fund except upon **30** days advance written notice to the employer.

We will also give you **30** days advance notice should this policy be cancelled prior to its normal expiration.

This certificate of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policy listed herein. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate of insurance may be issued or to which it may pertain, the insurance afforded by the policy described herein is subject to all the terms, exclusions, and conditions, of such policy.

Authorized Representative

President and CEO

EMPLOYER'S LIABILITY LIMIT INCLUDING DEFENSE COSTS: $1,000,000 PER OCCURRENCE.

ENDORSEMENT #2065 ENTITLED CERTIFICATE HOLDERS' NOTICE EFFECTIVE 02-01-2023 IS ATTACHED TO AND FORMS A PART OF THIS POLICY.

ENDORSEMENT #2572 ENTITLED BLANKET WAIVER OF SUBROGATION EFFECTIVE 2023-02-01 IS ATTACHED TO AND FORMS A PART OF THIS POLICY

EMPLOYER

COLLECTIVE LEGAL SERVICES, INC. THE EVICTION DEFENSE CENTER A NON-PROFIT
350 FRANK H OGAWA PLZ STE 703
OAKLAND CA 94612

[BA3,CN]

RESOLUTION 23-14

AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO A TWO-YEAR CONTRACT WITH THE EVICTION DEFENSE CENTER (EDC) IN AN AMOUNT NOT TO EXCEED $871,000 FOR FISCAL YEARS 2023/24 AND 2024/25

BE IT RESOLVED BY the Rent Stabilization Board of the City of Berkeley as follows:

WHEREAS, the primary intent of the Rent Stabilization Board and the Rent Stabilization and Eviction for Good Cause Ordinance is to preserve affordable housing so as to continue the diversity the Berkeley community has embraced for decades; and

WHEREAS, effective administration of the Rent Stabilization and Eviction for Good Cause Ordinance and advocacy surrounding the eviction protections listed therein have proven the most effective way to preserve affordable housing and prevent displacement that often leads to homelessness; and

WHEREAS, the Board first contracted with the Eviction Defense Center (EDC) in 2001 to provide services to lower-income Berkeley tenants, and the Board has extended the contract with amendments through Fiscal Year (FY) 2022/23; and

WHEREAS, the Board's contract with the EDC is scheduled to expire on June 30, 2023 and a need continues to exist for providing services to lower-income Berkeley tenants on matters dealing with their tenancies; and

WHEREAS, in April of 2023 the City of Berkeley issued a formal Request for Proposal (RFP) asking qualified vendors to submit proposals for the providing of outreach and legal services to lower income Berkeley tenants; and

WHEREAS, EDC was one of two vendors that submitted proposals that met the RFP requirements; and

WHEREAS, the Board has been extremely pleased with the excellent services provided by the EDC since 2001; and

RESOLUTION 23-14

AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO A TWO-YEAR CONTRACT WITH THE EVICTION DEFENSE CENTER (EDC) IN AN AMOUNT NOT TO EXCEED $871,000 FOR FISCAL YEARS 2023/24 AND 2024/25 (Page 2)

WHEREAS, the Board has long understood that the work this organization performs significantly contributes to the preservation of affordable rental housing and has encouraged Council to allocate resources to support it; and

WHEREAS, the Berkeley City Council, in recognition of the need for additional anti-displacement counseling and eviction defense services to be provided to Berkeley tenants, has recently allocated annual funding to EDC for this purpose; and

WHEREAS, at the request of the City Council, the scope of services under this contract has been expanded to include the additional funding provided by City Council; and

WHEREAS, the proposed City Council and Rent Board budgets for FY 2023/24 include $275,000 (General Fund) and $160,500 (Rent Board Fund) respectively to fund the services provided by this contract; and

WHEREAS, the Board expressed a desire that its Executive Director negotiate a contract of at least two-years in duration with any vendors providing anti-displacement services to lower income tenants; and

WHEREAS, the Board anticipates the City Council will approve $275,000 in funding to EDC for both FY 2023/24 and FY 2024/25 and agrees to authorize the Board's Executive Director to disburse any funding allocated by the City Council toward the services provided by this contract; and

WHEREAS, the Board agrees to provide $148,605 in funding for the services provided by this contract in FY 2024/25.

RESOLUTION 23-14

AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO A TWO-YEAR CONTRACT WITH THE EVICTION DEFENSE CENTER (EDC) IN AN AMOUNT NOT TO EXCEED $871,000 FOR FISCAL YEARS 2023/24 AND 2024/25 (Page 3)

NOW, THEREFORE BE IT RESOLVED, that the Rent Stabilization Board authorizes the Board's Executive Director to enter into a new two-year contract with the EDC for an amount not to exceed $435,500 (including $275,000 from City Council General Fund) per fiscal year. The term of this contract is from July 1, 2023 through June 30, 2025. The total amount payable under this contract shall not exceed $871,100.

Dated: June 15, 2023

Adopted by the Rent Stabilization Board by the following vote:

YES: Alpert, Elgstrand, Johnson, Kelley, Marrero, Martinac, Mizell, Walker, Simon-Weisberg
NO:
ABSTAIN:
ABSENT:
RECUSED:

Leah-Simon-Weisberg, Chair
Rent Stabilization Board

Attest:
DéSeana Williams, Executive Director

RESOLUTION NO. 70,936-N.S.

ADOPTING THE CITY OF BERKELEY PROPOSED BUDGET UPDATE FOR FISCAL YEAR 2024

WHEREAS, on June 28, 2022, the City Council adopted the biennial budget for Fiscal Year 2023 and Fiscal Year 2024 Budget; and

WHERAS, the purpose of the Proposed Budget Update for Fiscal Year 2024 is to provide an update on revenue estimates and recommended changes in planned expenditures since the adoption of the biennial budget; and

WHEREAS, the City Council held a series of meetings to consider the Proposed Budget Update, including public hearings held on May 16, 2023, June 13, 2023 and June 27, 2023; and

WHEREAS, in addition to formal budget adoption, City Council action is required to authorize advances for select community agencies receiving funds in FY 2024. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED, that the Council of the City of Berkeley adopts the FY 2024 Proposed Budget Update.

BE IT FURTHER RESOLVED that the appropriations constituting the FY 2024 Adopted Budget will be reflected in a separate FY 2024 Annual Appropriation Ordinance, as required by Charter.

BE IT FURTHER RESOLVED, that the City Manager is authorized to execute contracts and /or amendments, as necessary, to provide advances to selected community agencies receiving City funds in FY 2024.

BE IT FURTHER RESOLVED, that the City Manager is authorized to use the following invoicing/reporting system in contract administration, but maintains the discretion to amend these requirements depending on risk factors associated with past performance, the amount and type of funding an agency receives, and/or whether or not an agency is a new grantee:

Agencies receiving under $50,000 in General Fund to provide the following services:

1. Drop-In services only with no intensive case management, meal programs, outreach programs, or recreation programs:
    - Statements of Expense are required quarterly and a General Ledger is required at fiscal year-end; and
    - An end-of-year narrative summary of accomplishments.

2. All other agencies receiving General Fund only:
    - Statements of Expense are required quarterly and a General Ledger is required at fiscal year-end; and
    - Program Reports are required semi-annually.

3. Agencies with State and/or Federal Funding:
    - Statements of Expense are required quarterly and a General Ledger is required at fiscal year-end; and
    - Program Reports are required quarterly.

BE IT FURTHER RESOLVED, that the City Manager is authorized to refuse to execute or amend a contract with any agency that has not provided required contract exhibits and documentation within 60 days of award of funding.

BE IT FURTHER RESOLVED, that the City Manager is authorized to execute other resultant agreement and amendments with other agencies relating to receipt and expenditure under CDBG or CSBG Program in accordance with the proposals for community agency funding approved through the budget process. A record copy of said contracts and any amendments are on file with the Office of the City Clerk.

The foregoing Resolution was adopted by the Berkeley City Council on June 27, 2023 by the following vote:

Ayes: Bartlett, Hahn, Harrison, Humbert, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.

Jesse Arreguin, Mayor

Attest: Mark Numainville, City Clerk

City of Berkeley, California 2023 BUSINESS LICENSE

This license must be conspicuously posted. Business owner is responsible for renewing this business license by the 28th of february each year.

License Number

BL-030676

Expires On

12/31/23

Nbr of tags:

4

Business Type: COLLECTIVE LEGAL SERVICES

Location: 0 VARIOUS

COLLECTIVE LEGAL SERVICES CORP
350 FRANK H. OGAWA PLAZA #703
OAKLAND, CA 94612-2148

This license is issued without verification that the license is subject to an exemption from licensing by the state. It shall not be construed as authorizing the conduct or continuance of any illegal or unlawful business nor does it constitute conformity with zoning, toxic code, fire, building permit and/or health requirements. - compliance with bmc 9.04 only

RECEIVED

AUG 0 1 2023

CITY OF BERKELEY
CITY CLERK DEPARTMENT

EXPENDITURE NON-CONSTRUCTION CONTRACT REVIEW FORM
"NEW CONTRACT"

Contract # 32500038 **Vendor #17867**

CONTRACTOR NAME: Eviction Defense Center **Berkeley Business License #** BL-030676

Subject of Contract: Housing Retention Program

This contract package contains: **2 Original Contracts (Vital Record and Vendor) in folder** ***The Vital Record contract MUST be in a folder. Vendor copies may be assembled with an Acco-fastener.** ****DocuSign Agreements only require 1 Original (Vital Record) copy.**	**Attached**	**Waiver Attached**	**Not Required**
1. CONTRACT BOILERPLATE	☒		
2. Scope of Services (Exhibit A @ boilerplate)	☒		
3. Payment Provisions (Exhibit B @ boilerplate)	☒		
4. Evidence of Competitive Solicitation OR Waiver by CM or by Council Resolution	☒	☐	☐
5. CERTIFICATIONS			
a. Workforce Composition *(businesses with 5 or more employees)*	☒	☐	☐
b. Nuclear Free Berkeley Disclosure	☒	☐	☐
c. Oppressive States Disclosure *(Exception: Community-based, non-profit organizations)*	☐	☐	☒
d. Sanctuary City Compliance Statement	☒	☐	☐
e. Certification of Compliance with Living Wage Ordinance (LWO): ***use current form on web****	☒	☐	☐
f. Certification of Compliance with Equal Benefits Ordinance: ***use current form on web****	☒	☐	☐
g. Community Agency: Certification of Anti-Lobbying	☒	☐	☐
h. Community Agency: Certification of Drug-Free Workplace	☒	☐	☐
6. Insurance Certificate/s AND Endorsement/s OR Insurance Waiver/s *(originals, not copies)*	☒	☐	☐
7. Authorizing Council Resolution # 71,433	☒		☐
8. Consultant Contracts: Form 700, Statement of Economic Interests	☐		☒
9. Federally Funded Project Requirement: Debarment status printout (SAM.gov)	☒		☐

Requisition #12500586 *(Hard copy attached)* **Budget Code**

ERMA GL	FY25	FY26	FY27	FY28
016-51-504-530-0000-000-444-636110-	$250,000.00	$250,000.00	$250,000.00	$250,000.00
310-51-504-530-0000-000-444-636110-	$547,139.00	$547,139.00	$547,139.00	$547,139.00

Contract Amount $ $3,188,556.00

Council Approved Amount $ $3,188,556.00

Was there any advance payment? **No** ☐ **Yes** ☒ ..... **If Yes, Advanced Amount $** $199,285.00
If Yes, Purchase Order # _____

Routing and signatures:
All elements of the contract package, including information provided above, have been reviewed for completeness and accuracy and evidenced by the following signatures (Project Manager please print name):

1. Myette Anderson *Myette Anderson* — **Project Manager (PRINT NAME/SIGN)** — HCS-Homeless — **Department** — 510-981-5419 — **Phone No.** — 9/25/24 — **Date**
2. Ann Song *Ann Song* — **Department Administrative Officer/Accounting (PRINT NAME/SIGN)** — 11/20/2024 — **Date**
3. Margot Ernst *Margot Ernst* APPROVED — **Department Head (PRINT NAME/SIGN)** — 11/27/24 — **Date**
4. ~~Dennis Dang~~ *Henry Oyekanmi* → VIA EMAIL — **Contract Administrator (PRINT NAME/SIGN)** — 12/09/2024 — **Date**
5. Sharon Friedrichsen *Sharon Friedrichsen* — **Budget Manager (PRINT NAME/SIGN)** — 12-10-24 — **Date**

Routing continues to the following persons, *who sign directly on the contract*:
6. **City Manager** *(Will not sign unless all signatures and dates appear above)* EXECUTED
7. **City Clerk:** Destruct_____ Review _____ DEC 17 2024

VOID 12/16/24

* **For current vendor forms,** go to City of Berkeley website: Vendor Forms & Requirements

EXPENDITURE NON-CONSTRUCTION CONTRACT REVIEW FORM
"NEW CONTRACT"

Contract # 32500038 **Vendor #17867**

CONTRACTOR NAME: Eviction Defense Center **Berkeley Business License #** BL-030676

Subject of Contract: Housing Retention Program

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2. Scope of Services (Exhibit A @ boilerplate)	☒		
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5. CERTIFICATIONS			
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b. Nuclear Free Berkeley Disclosure	☒	☐	☐
c. Oppressive States Disclosure *(Exception: Community-based, non-profit organizations)*	☐	☐	☒
d. Sanctuary City Compliance Statement	☒	☐	☐
e. Certification of Compliance with Living Wage Ordinance (LWO): ***use current form on web****	☒	☐	☐
f. Certification of Compliance with Equal Benefits Ordinance: ***use current form on web****	☒	☐	☐
g. Community Agency: Certification of Anti-Lobbying	☒	☐	☐
h. Community Agency: Certification of Drug-Free Workplace	☒	☐	☐
6. Insurance Certificate/s AND Endorsement/s OR Insurance Waiver/s *(originals, not copies)*	☒	☐	☐
7. Authorizing Council Resolution # 71,433	☒		☐
8. Consultant Contracts: Form 700, Statement of Economic Interests	☐		☒
9. Federally Funded Project Requirement: Debarment status printout (SAM.gov)	☒		☐

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Project Manager (PRINT NAME/SIGN) **Department** **Phone No.** **Date**

2. Ann Song — _____
Department Administrative Officer/Accounting (PRINT NAME/SIGN) **Date**

3. Margot Ernst — _____
Department Head (PRINT NAME/SIGN) **Date**

4. Dennis Dang — _____
Contract Administrator (PRINT NAME/SIGN) **Date**

5. Sharon Friedrichsen — _____
Budget Manager (PRINT NAME/SIGN) **Date**

Routing continues to the following persons, *who sign directly on the contract:*
6. **City Manager** *(Will not sign unless all signatures and dates appear above)*
7. **City Clerk:** Destruct_____ Review _____

* **For current vendor forms**, go to City of Berkeley website: Vendor Forms & Requirements

COMMUNITY AGENCY CONTRACT
COMMUNITY SERVICES

This contract is entered into on July 1, 2024, between the CITY OF BERKELEY ("City"), a Charter City organized and existing under the laws of the State of California, and Eviction Defense Center ("Contractor"), a non-profit corporation under the laws of the State of California, doing business at 350 Frank Ogawa Plaza, Suite 703, Oakland, Ca 94612.

WHEREAS, the City has entered into a grant contract with the United States Department of Housing and Urban Development (HUD), for a Community Development Block Grant (CDBG), identified also as CFDA # 14.218, under the Housing and Community Development Act of 1974, as amended, and/or United States Department of Housing and Urban Development for an Emergency Solutions Grant (ESG), identified also as CFDA # 14.231, under the Stewart B. McKinney Homeless Assistance Act of 1988, as amended, and/or the HOME Investment Partnerships Program, identified also as CFDA # 14.239, under the National Affordable Housing Act of 1990 (NAHA), and/or Government Code Section 12725 et. seq., as amended, and 42 United States Code (USC) 9901 et.seq., as amended, the Community Services Block Grant Act as amended (CSBG), identified also as CFDA # 93.569, and under said grant contract(s) and/or through the use of its General Funds, the City is undertaking certain activities; and

WHEREAS, the City desires to engage Contractor to render certain assistance for such undertaking.

NOW, THEREFORE, the City and Contractor mutually agree as follows:

ARTICLE 1, SCOPE OF SERVICES

A. Annually, Contractor agrees to perform all those services described in Exhibit A. Exhibit A is attached hereto and made a part hereof, in accordance with the terms and conditions stated therein.

B. Contractor shall identify in Exhibit A the name, title, general program duties, and time allotted for all key personnel that Contractor proposes to perform the activities described in Exhibit A. Contractor shall provide the City with 5 days written notice prior to making any changes to the personnel proposed to perform the scope of services. The written notice shall include the resume and position of the new personnel.

C. Contractor shall provide all necessary supplies, equipment, materials, clerical and all other services required for satisfactory performance of this contract as described in Exhibit A.

ARTICLE 2, TIME PERIOD OF CONTRACT

Contractor shall begin performance under this contract on July 1, 2024, and shall continue until June 30, 2028, unless earlier terminated as provided in this agreement. The City will pay Contractor an amount not to exceed $797,139 ($250,000 in U1 funding and $547,139 in HOME-ARP funding) per fiscal year for a period of four years, for a total contract amount not to exceed $3,188,556.

The not to exceed ("NTE") amount in Article 3 is the amount for each year of this four-year contract. If the City Council authorizes an increase or decrease to the NTE amount in Article 3, the City Manager or his/her designee shall notify Contractor in writing. The written notification to Contractor shall include the new NTE amount and revised Exhibits A and B, with a signature line for the Contractor to acknowledge its acceptance of the amended terms. If the NTE amount and scope of services will remain the same for subsequent years as in the first year, no further action is necessary from either Contractor or City. The City Manager may extend the term of this contract, using the written notification described in this paragraph, to allow the use of these funds for the extended term.

ARTICLE 3, PAYMENT

A. For services referred to in Article 1, City agrees to pay Contractor an amount not to exceed $797,139 annually, in accordance with the terms of Exhibit B, Budget and Method of Payment, attached hereto made a part hereof. It is mutually agreed that if the budget adopted by Council for the current year and/or any subsequent year covered under this agreement does not allocate sufficient funds for this contract or funding for any fiscal year from any source is reduced or deleted, the City may either terminate this contract without any liability occurring to the City in accordance with paragraph 28, or offer a revised Scope and Budget to Contractor to reflect the reduced amount.

B. Payment by City shall be subject to receipt of Contractor's invoice(s) or advance-payment request form(s) and, if necessary, supporting documentation of expenditures. At the beginning of the contract period, City will inform Contractor of the necessary procedures for billing including submission of supporting documentation.

C. Failure by Contractor to expend any portion of the funds allocated by the City to Contractor within the prescribed annual period, or failure by Contractor to properly account for funds allocated by the City to Contractor, shall be cause for the City to demand return of that portion of unspent or unaccounted City-allocated funds, irrespective of the source of the funds. Exceptions to this section may apply when the contract term is extended.

ARTICLE 4, BUDGET MODIFICATION

A. A 10% variation among budget line item categories will be allowed, provided the total expenditure under all line items does not exceed the total contract amount.

B. A variation among budget line items exceeding 10% will be allowed at Contractor's discretion, provided written approval is granted by the Manager of the Housing and Community Services Division ("HCS") or his/her designee prior to submission of Contractor's invoice, and provided that the contract total is not exceeded.

C. Expenditures covered by unauthorized budget modifications will be subject to disallowance by City and repayment by Contractor.

ARTICLE 5, METHOD OF PAYMENT MODIFICATION

A. Modifications in the Method of Payment requested by Contractor will be allowed provided the total contract amount is not exceeded and provided prior written approval is granted by the Manager of HCS or his/her designee.

B. Modifications in the Method of Payment that exceed the total contract amount will require City Council approval.

ARTICLE 6, RECORDS

A. Contractor shall keep and maintain full, complete, and appropriate books, records, and accounts necessary to evidence and substantiate in full detail Contractor's compliance with the terms and provisions of this Agreement. Books, records, and accounts relating to this Agreement shall be kept and maintained in compliance with 2 C.F.R. Part 200.

1. Records of nonexpendable property shall be maintained in accordance with the procedures set forth in 2 C.F.R. Part 200 and shall contain any additional information that the City may require.

2. Financial records of contract funds shall be kept separately and not co-mingled with records of other funds.

3. Solely for the purpose of verifying compliance with the terms of this Contract, Contractor shall maintain the following types of records:

    a. Job description, minimum qualifications, and compensation for all positions funded under this contract;

    b. Time sheets or comparable documentation for all personnel compensated with contract funds. Such records shall clearly show the time spent on contract activities. The City may require Contractor to use timesheets formatted to track funded activities distinctly from work funded by other funding sources that are not part of this contract.

4. Contractor assures that, for contracts exceeding one hundred thousand dollars ($100,000), to the best of its knowledge, it is fully complying with the earnings assignment orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in the Child Support Compliance Act of 1998, subdivision (1) Public Contract Code 7110.

B. Contractor agrees to maintain racial, Hispanic/Latino ethnicity, gender, head of household, age, income, family size, and neighborhood residence data, as may be required under the law, showing the extent to which, these categories of persons have participated in, or benefited from the contract activities. In certain cases, the City may require either less or more information than identified above, depending on the requirements of various funding sources.

C. Contractor agrees to maintain records demonstrating that each activity undertaken meets one of the national objectives of the CDBG program set forth in 2 C.F.R. Part 200.

D. Contractor agrees to maintain employee and applicant records in a confidential manner to assure compliance with the Information Practices Act of 1977, as amended, and the Federal Privacy Act of 1974, as amended.

E. Contractor agrees to maintain and preserve such records during the period from start of contract performance until five (5) years from the audit referred to in Article 30, is conducted and Contractor receives City notification that said audit has been accepted, whichever is later, except as follows:

    1. Records that are subject of audit findings shall be retained for five years after such findings have been resolved.

    2. Records for non-expendable property that was acquired with contract funds shall be retained for five years after its final disposition.

    3. Records for any person displaced as a result of contract activities shall be retained for three years after the contract activities have been completed or the person has received his/her final relocation payment, whichever is later.

    4. Records pertaining to each real property acquisition shall be retained for five years after settlement of the acquisition, or until disposition of the applicable relocation records in accordance with paragraph (3) of this section, whichever is later.

F. The Secretary of HUD, the Comptroller General of the United States, the State Department of Economic Development, the City, or any of their duly authorized representatives shall have access to and right to examine such records related to this contract during this period, unless prohibited by law.

ARTICLE 7, REPORTS AND ON-SITE REVIEWING

A. Reports: Contractor agrees to submit periodic program status and financial reports to City in a timely manner, and other reports and information as City determines are necessary to carry out its responsibilities in accordance with 2 C.F.R. Part 200.

B. On-Site Performance Review: Authorized representatives of HUD, the State of California, and the City shall have the opportunity to review Contractor's performance under this contract at the sites where such performance is being conducted. This review shall be in accordance with 2 C.F.R Part 200. Such review is solely for the purpose of verifying that the Contractor is providing the quality and quantity of services specified in this contract and includes:

1. Observation of service delivery and training, as agreed upon by Contractor, and administrative activities in support of this contract.

2. Interview with Contractor personnel and staff currently involved in project operations.

3. Validation of source data used in the preparation of reports to the City, provided this does not result in any breach of client confidentiality and is mutually agreed upon.

4. Interviews with clients, when such interviews will not result in a breach of client confidentiality and are mutually agreed upon.

5. Inventory of personal property acquired with contract funds.

Refusal or failure by Contractor to provide reviewing opportunities as described herein within ten (10) working days after notice from the City constitutes a violation of this contract and forms the basis for a for cause contract termination pursuant to Article 28 of this Agreement.

ARTICLE 8, FINANCIAL MANAGEMENT

The Contractor shall maintain a financial management system in accordance with 2 C.F.R. Part 200 (including Subparts D, E & Appendix IV), which provide for:

A. Records that identify adequately the source and application of funds for contract activities.

B. Effective control over and accountability for all funds, property, and other assets. Contractor shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

C. Comparison of actual outlays with budgeted amounts for contract funds.

D. Procedures to minimize the time elapsing between the transfer of funds from the City and disbursement by the Contractor, whenever the City advances funds. CDBG funds shall be placed in an interest-bearing account, where appropriate.

E. Procedures for determining the reasonableness, allowability, and allocability of costs.

F. Accounting records that are supported by source documentation.

G. A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

ARTICLE 9, TANGIBLE PERSONAL PROPERTY

All procurement transactions funded under this contract for tangible personal property shall be conducted in a

manner consistent with HUD regulations in 2 C.F.R. Part 200.

A. Definitions

1. Personal Property: Personal property refers to all property, except real property, which is acquired with contract funds. Tangible property has physical existence. Intangible property has no physical existence.

2. Non-expendable Personal Property: Non-expendable personal property means tangible personal property, acquired with contract funds, having a useful life of more than one year and an acquisition cost of $600 or more per unit.

3. Expendable Personal Property: Expendable personal property refers to all tangible personal property acquired with contract funds other than non-expendable property.

B. Acquisition

1. Purchase of personal property exceeding $600 per item and not delineated in Exhibit B shall require prior approval from the City.

2. Contractor shall submit documentation to City for each item of non-expendable property at the time such property is acquired. Documentation shall demonstrate proof of purchase and indicate date of acquisition, cost, and description of the item, and any other information that the City may require.

C. Identification, Inventory, and Maintenance

1. Contractor shall conduct annual inventories to verify the existence, condition, current utilization, and future need for non-expendable property. Contractor shall submit a written report on each inventory conducted by Contractor to the City. Such report shall account for any differences between Contractor's property records and the inventory findings.

2. Contractor shall ensure adequate safeguards to prevent loss, damage, and theft of property. In case such property is stolen or lost, Contractor shall immediately notify the Police Department, obtain a written police report, and notify the City within three (3) working days of discovering stolen or lost property.

D. Use and Disposition

1. Non-Expendable Property

a. Title to non-expendable personal property having a unit acquisition cost of less than $1,000 shall vest in the Contractor. For non-expendable personal property having a unit acquisition price of $1,000 or more, HUD/State/ City reserves the right to transfer the title to HUD/ State/City or to a third party when such third party is otherwise eligible under existing statutes.

b. Contractor shall use the property for the project or program for which it is acquired as long as needed, whether or not the project or program continues to be supported by Government funds. When no longer needed for the original project/program, Contractor shall use the property in connection with other Government sponsored activities in the following order of priority:

1) Activities sponsored by HUD/State/City.

2) Activities sponsored by other Government agencies

c. During the time the property is held for use on the project or program for which it was acquired,

Contractor may make the property available for use on other projects or program if such other use does not interfere with the work on the project or programs for which it was originally acquired.

d. When Contractor no longer needs the property as provided in (b) above, the property may be used for other activities as follows:

1) Non-expendable property with a unit acquisition price of less than $1,000 may be used by Contractor for other activities without reimbursement to the Government, or may be sold and the proceeds retained by the Contractor.

2) Non-expendable property with a unit acquisition price of $1,000 or more may be retained by Contractor for other uses provided compensation is made to HUD/State/City or its successor(s). If Contractor has no further need for the property and the property has further use value, Contractor shall request and follow disposition instructions from the City.

3) Expendable Property

e. Title to expendable personal property shall vest in the Contractor upon acquisition. Upon termination of the contract, Contractor shall conduct an inventory to determine the amount of unused expendable personal property on hand that was acquired with contract funds. If there is a residual inventory of such property exceeding $1,000 in total aggregate fair market value, upon termination or completion of the contract activities and if the property is not needed for any other Government sponsored project or program, the Contractor shall retain the property for use on non-Government sponsored activities or sell it, but in either case, compensate the Government for its share.

ARTICLE 10. INTANGIBLE PROPERTY

A. Invention and Patents: Any discovery or invention arising out of or developed in the course of work aided by this contract shall be promptly and fully reported to the City. Contractor shall request City to determine whether patent protection on such invention or discovery should be sought, and to determine how the rights in the invention or discovery, including rights under the patent thereon, shall be allocated and administered to protect the public interest.

B. Copyrights: Except as otherwise provided in this contract, Contractor is free to copyright any books, publications, or other copyrightable materials arising out of or developed during the course of work aided by contract funds, but the City, State and HUD reserve a royalty-free, non- exclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for government purposes.

C. Publications: Books, publications, and other printed materials resulting from and developed in the course of work aided by this contract, whether copyrighted or not, shall acknowledge the support of HUD/State/City funds. Five (5) copies of each such publication are to be furnished to the City as the City may reasonably require.

D. Publicity: Any publicity generated by Contractor for the project funded pursuant to this contract, during the term of this contract or for one year thereafter, will make reference to the contribution of the City in making the project possible. The words "City of Berkeley" and the specific funding source will be explicitly stated in any and all pieces of publicity, including but not limited to fliers, press releases, posters, brochures, public service announcements, interviews, and newspaper articles.

The City's staff will be available whenever possible at the request of Contractor to assist Contractor in generating publicity for the project funded pursuant to this contract. Contractor further agrees to cooperate with authorized City officials and staff in any City-generated publicity or promotional activities undertaken with respect to this

project.

ARTICLE 11, PROCUREMENT STANDARDS

A. All applicable procurement transactions funded under this contract shall be conducted in a manner that provides, to the maximum extent practical, open and free competition consistent with HUD Regulations at 2 C.F.R. Part 200, 24 C.F.R. Part 570, and Executive Orders 11625, 12138 and 12432 to the extent such regulations are applicable.

B. Contractor shall take all necessary affirmative steps to use small business and minority- and women-owned business sources of supplies and services (2 C.F.R. Part 200) and business concerns located in Berkeley or owned in substantial part by Berkeley residents (see also Article 18).

C. For procurement of services, supplies, or other property, Contractor shall use one of the following procurement methods:

1. $1 to $50. Items with a total value (per order) of $50 or less may be procured using petty-cash procedures.

2. $51 to $5,000. Contractor should obtain informal quotes from local Berkeley vendors prior to contacting non-Berkeley vendors. Local Berkeley vendor quotes must be discounted by five percent when comparing the bid with a bid from a non-local vendor.

3. $5,001 to $24,999. Contractor must solicit three quotes that may be generated through telephone conversations or provided on a fax, but must be specifically referenced on the requisition by vendor, contact person, date, and cost. Local Berkeley vendors must be contacted for informal quotes and must be discounted by five percent when comparing the bid with a bid from a non-local vendor.

4. $25,000 and Over. Purchases over $25,000 must undergo either an Invitation for Bid (IFB), used for construction contracts or goods, or Request for Proposal (RFP) process, used for the procurement of services, as provided below.

   a. Competitive Sealed Bids: This method uses a formal procedure for securing services, supplies or other property that are expected to cost, in the aggregate, more the $25,000. Sealed bids are publicly solicited and a firm, fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid is lowest and best in price.

   b. Request for Proposal: When obtaining good or services, Contractor shall request proposals from at least three sources. A Request for Proposal is publicized, negotiations are normally conducted with more than one of the sources submitting offers, and either a fixed price or cost-reimbursable type contract is awarded, as appropriate. Competitive negotiations may be used if conditions are not appropriate for the use of formal advertising.

D. Contractor shall maintain records documenting adherence to the above detailed procurement standards.

ARTICLE 12, RELEASE, INDEMNIFICATION AND INSURANCE

A. Release: Contractor, upon final payment of amount due under this contract, less any credits, refunds, or rebates due to City, releases and discharges City from all liabilities, obligations and claims arising from this contract.

B. Indemnification: Contractor, for itself, and its heirs, successors, and assigns, agrees to release, indemnify, hold harmless, and defend City, its officers, agents, volunteers, and employees, from and against any and all claims, demands, liability, economic loss of any type, damages, lawsuits, or other actions for damage or

injury to persons or property arising out of or in any way connected with the Contractor's operations under this contract, or the performance of this contract by Contractor or its officers, employees, partners, directors, subcontractors, or agents, except to the extent such claim, suit or action arises out of the sole negligence or willful misconduct of City.

C. Insurance:

1. The Contractor shall maintain at all times during the performance of this contract, a commercial general liability insurance policy with a minimum occurrence coverage in the amount of $2,000,000; an automobile liability insurance policy (if applicable) in the minimum amount of $1,000,000; and, if any licensed professional performs services under this contract, a professional liability insurance policy in the minimum amount of $2,000,000 to cover any claims arising out of Contractor's performance of services under this contract. Said insurance, except professional liability, shall name the City, its officers, agents, volunteers, and employees as additional insureds on a separate form endorsement and shall provide primary coverage with respect to the City. All said insurance policies shall provide that the insurance carrier shall not cancel, terminate, or otherwise modify the terms and conditions of said policies except upon thirty (30) days prior written notice to the City; shall be evidenced by the original Certificate of Insurance The original insurance certificates and all extensions to the insurance certificates should be emailed or sent to the address identified below:

Health, Housing and Community Services Department
2180 Milvia Street, 2nd Floor,
Berkeley CA 94704
HHCS-Contracts@berkeleyca.org

2. If the commercial general liability insurance referred to above is written on a Claims Made Form, then, following termination of this Agreement, coverage shall survive for a period of not less than five years. Coverage shall also provide for a retroactive date of placement coinciding with the effective date of this contract.

3. If Contractor employs any person, it shall carry workers compensation and employer's liability insurance and shall provide a certificate of insurance to the City. Workers' compensation policy shall include Employer Liability Insurance with limits not less than $1,000,000 each accident. The workers compensation insurance shall provide that the insurance carrier shall not cancel, terminate, or otherwise modify the terms and conditions of said insurance except upon thirty (30) days prior written notice to the City; shall provide for a waiver of any right of subrogation against City to the extent permitted by law; and shall be approved as to form and sufficiency by the City's Contract Administrator.

4. Contractor shall have the insurance carrier mail all original insurance documents directly to the City of Berkeley Department referenced in section (C)(1) above.

ARTICLE 13, CONFORMITY WITH LAW AND SAFETY

A. Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services or any part thereof, including all provisions of the Occupational Safety and Health Act of 1979 and all amendments thereto, and all applicable federal, state, municipal, and local safety regulations. All services performed by Contractor must be in accordance with the applicable laws, ordinances, codes, and regulations including but not limited to the following:

1. Environmental and Historic Preservation: Environmental review is triggered by reservation of a federal funding source for community-facility and housing projects that are not otherwise exempt from federal environmental regulations. The City will work with Contractor to ensure its compliance with HUD Regulations at 24 C.F.R. Part 58. No work or choice limiting actions will be undertaken until required

reviews have been completed and HUD has authorized release of funds.

2. Applicable Code of Federal Regulations: The requirements of 2 C.F.R. Part 200.

3. Applicable OMB Circulars: The applicable policies, guidelines, and requirements of 2 C.F.R. Part 200.

4. Faith Based Activities: The requirements of 24 C.F.R. Part 92.257 and 24 C.F.R. Part 570.200(j) regarding eligible use of funds by organizations that are religious or faith-based.

5. Civil Rights, Housing & Community Development, and Age Discrimination Acts: The Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 C.F.R. Part 100 et seq.; Title VI of the Civil Rights Act of 1964 as amended; Title VIII of the Civil Rights Act of 1968 as amended; Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended; Section 50 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Executive Order 11063 as amended by Executive Order 12259 and implementing regulations at 24 C.F.R. Part 100 Executive Order 11246 as amended by Executive Orders 11375, 12086, 11478, 12107; Executive Order 11625 as amended by Executive Order 12007; Executive Order 12432; Executive Order 12138 as amended by executive Order 12608.

6. Discrimination Against the Disabled: The requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and federal regulations issued pursuant thereto, which prohibit discrimination against the disabled in any federally assisted program, the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157), and the applicable requirements of Title II and/or Title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.), and federal regulations issued pursuant thereto.

7. Uniform Administrative Requirements: The requirements of 2 C.F.R. Part 200 regarding cost and auditing requirements.

8. Drug Free Workplace: Contractor shall provide a drug-free workplace and establish a drug-free awareness program in compliance with the Drug-Free Workplace Act of 1988, the required certification, when applicable, and implementing regulations at 2 C.F.R Part 200 as defined in 41 U.S.C. 701.

9. Anti-Lobbying; Disclosure Requirements: Contractor shall comply with Section 1352, Title 31, U.S. Code and implementing regulations at 24 C.F.R. Part 87 stipulating that no federal funds shall be spent for lobbying and agrees to disclose names of persons and amounts paid with non-federal funds to influence decisions by Congress or Executive Branch agencies, when applicable.

10. HUD Regulations: Any other HUD regulations present or as may be amended, added, or waived in the future pertaining to the contract funds, including but not limited to HUD regulations as may be promulgated regarding subrecipients.

B. Contractor shall release, defend, indemnify, and hold City, its officers, agents, volunteers, and employees harmless from any and all damages, liability, fines, penalties, and consequences from any noncompliance or violation of such laws, ordinances, codes and regulations.

C. If a death, serious personal injury, or substantial property damage occurs in connection with the performance of this Agreement, Contractor shall immediately notify the City's Employee Relations Officer by telephone. Contractor shall promptly submit to City a written report, in such form as may be required by City, of all accidents which occur in connection with this contract. This report shall include the following information: (1) name and address of the injured or deceased person(s), (2) name and address of Contractor's subcontractor, if any, (3) name and address of Contractor's liability insurance carrier, and (4) a detailed

description of the accident and whether any of City's equipment, tools, or materials were involved.

ARTICLE 14. CONFLICT OF INTEREST PROHIBITED

A. Interpretation of this Article 14 shall be governed by the definitions and provisions used in the Political Reform Act, Government Code section 87100 *et seq*., its implementing regulations, manuals and codes, Government Code section 1090, Berkeley City Charter section 36 and B.M.C. Chapter 3.64.

B. In accordance with Government Code section 1090, B.M.C. 3.64, and Berkeley City Charter section 36, neither Contractor nor any person who is an employee, officer, director, partner, or member of contractor, or immediate family member of any of the preceding shall have served as either an elected officer, an employee, or a board, committee, or commission member of the City, who has either directly or indirectly influenced the making of this contract or the City program that created it.

C. In accordance with Government Code section 1090 and the Political Reform Act, Government Code sections 87100 et seq., no person who is a director, officer, partner, trustee, employee, or consultant of the Contractor or immediate family member of any of the preceding shall make or participate in a decision made by the City or a board, committee, or commission thereof, if it is reasonably foreseeable that the decision will have a material effect on any source or amount of income, investment, or interest in real property of that person or Contractor.

D. In the event that Contractor receives federal funds, then Contractor must also comply with federal conflict of interest statutes pursuant to federal regulation (24 C.F.R. Part 92.356; 24 C.F.R. Part 570.611).

ARTICLE 15. EMPLOYMENT OF NEAR RELATIVES PROHIBITED

Contractor hereby agrees to comply with the provisions of the City of Berkeley Employment of Near Relatives Policy. When employees are related, as specified below, such persons shall not engage formally or informally in supervisory relationships, except if the relationship existed prior to November 29, 2005, the effective date of this policy, and sufficient firewalls can be created to prevent actual or perceived conflict, or if approved in writing by the City of Berkeley.

A. Definitions

1. Near Relative: An individual's spouse, parent, sibling, child, grandparent, aunt, uncle, niece, nephew, cousin, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, stepparent, stepsibling, stepchild, grandchild, dependent, or domestic partner.

2. Supervisory Relationship: A direct supervisor-subordinate relationship between employees.

3. Firewalls: Accounting devices, procedures, practices, and relationships that prevent and negate the appearance or actuality of conflicts of interest in Contractor's personnel decisions and operations in fulfillment of the Contract's scope of services.

B. No person shall be appointed, promoted, demoted, flexibly placed, or transferred to any position, whether permanent or temporary, where such persons near relative already holds a position which would create a supervisory relationship as described herein.

C. No employee shall interview, recommend, or in any way be involved in the selection or disciplinary process of an employees near relative.

D. Current employees of Contractor on the effective date of this policy will be allowed to remain in positions

where they are in a supervisory relationship with a near relative under the following circumstances:

1. The employee has been in the position for six months or longer as of the effective date of this policy; and

2. Contractor creates sufficient firewalls to prevent actual or perceived conflict. Contractor must:

   a. Immediately disclose the near relative relationship in writing to the City of Berkeley Contract Monitor; and

   b. The near relative may not provide direct supervision; and

   c. The near relative may not sign time cards; and

   d. The near relative may not participate, in any way, in decisions that affect hiring, promotion, demotion, discipline, or salary rate.

E. Any Contractor who knowingly violates this policy may be subject to termination of the contract for cause.

F. The City of Berkeley may authorize exceptions to this policy whenever the best interests of the City so require. If an exception is granted, it shall be in writing.

ARTICLE 16, BONUSES PROHIBITED

The City of Berkeley prohibits the payment of bonuses from funds awarded as part of this contract.

ARTICLE 17, REQUIREMENTS FOR SERVICES TO MINORS

A. Criminal Background Checks: If Contractor provides services directly to minors, or provides services to participants, and these participants are accompanied by minors, Contractor shall conduct a criminal background check through the database of the California Department of Justice, and an FBI criminal database or equivalent national database (as required by the Contractor's liability insurance), on each of its employees and volunteers who have contact with or access to minors. Contractor shall not, at any time, allow its employees or volunteers to be in any position that allows for contact with or access to minors, if they have been convicted of any offense identified in the California Public Resources Code Section 5164. City and Contractor understand that the results of background checks on minors may be confidential under state law. Therefore, all employees or volunteers must be at least 18 years of age if they are to be in a position that allows for contact with or access to any minor. Contractor shall ensure that no person paid or unpaid by Contractor shall be permitted to provide services to minors unless appropriate background checks, including fingerprints, have been performed prior to the beginning of services under this Agreement, and the person meets the standards set forth above.

B. Tuberculosis Testing: Contractor shall ensure that no person paid or unpaid by Contractor shall be permitted to provide services requiring contact with children unless Contractor has complied with the TB testing requirements set forth in Section 5163 of the California Public Resources Code, verifying that the person or persons has provided evidence/verification of a negative TB skin test reading less than 2 (two) years old (if newly hired) or within 4 (four) years (if current employee) of the date of execution of this Agreement. For persons with a positive TB skin test reading, a physician's medical clearance must be obtained prior to services being provided as specified above. Grantee shall keep on file each "Certificate" of clearance for the persons described above, and shall also make available a copy of each Certificate to City, if requested and allowed by law. "Certificate" means a document signed by a licensed examining physician and surgeon or a notice from a public health agency or unit of the tuberculosis association, which indicated freedom from active tuberculosis.

ARTICLE 18, CONSULTANTS TO SUBMIT STATEMENTS OF ECONOMIC INTEREST

The City's Conflict of Interest Code, Resolution No. 59,372-N.S., as amended, requires every consultant to disclose conflicts of interest by filing a Statement of Economic Interest (Form 700). Consultants agree to file such statements with the City Clerk at the beginning of the contract period and upon termination of the Contractor's service.

ARTICLE 19, ECONOMIC OPPORTUNITIES FOR LOCAL BUSINESSES AND LOW-INCOME RESIDENTS

To the greatest extent feasible, Contractor shall offer opportunities for training and employment to lower income Berkeley residents, and patronize and award contracts for work in connection with this contract to business concerns which are located in Berkeley or owned in substantial part by Berkeley residents.

ARTICLE 20, PROGRAM INCOME

Program income is gross income generated from the use of CDBG funds received under this Agreement for purposes defined in 24 C.F.R. Part 570.500(a) The use of program income by Contractor shall comply with the requirements set forth at 24 C.F.R. Part 570.504.

A. Service Fees: Revenue generating activities include, but are not limited to, fees charged for services provided under this Agreement. Income earned shall be considered additional revenue to be expended by Contractor during the term of this Agreement to provide additional services.

B. Interest on Advances: Any interest earned on cash advances from the U.S. Treasury or from funds held in a revolving fund account is not program income and shall be remitted promptly to City.

C. Proceeds from Sale of Real or Personal Property: Proceeds from the disposition of real or personal property acquired under this Agreement (see 24 C.F.R. Part 570.504).

D. Unexpended Program Income: Unexpended program income received under this Agreement during or after the expiration of the term of the Agreement shall be remitted to City.

E. Reports: Contractor shall report quarterly all program income generated by activities carried out with CDBG funds made available under this Agreement.

ARTICLE 21, DISCRIMINATION PROHIBITED

Contractor hereby agrees to comply with the provisions of City Ordinance No. 5876-N.S., as amended from time to time, and made a part hereof. In the performance of this agreement, Contractor agrees as follows:

A. Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age (over 40) sex, pregnancy, marital status, disability, sexual orientation, or AIDS. This requirement shall apply to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

B. No person shall, on the grounds of race, color, religion, ancestry, national origin, age (over 40), sex, pregnancy, marital status, disability, sexual orientation, or AIDS, be excluded from participation in the performance of this contract.

C. In the performance of this contract, Contractor agrees to comply with all applicable provisions of Title II of the Americans with Disabilities Act of 1990 and any amendments thereto. Contractor shall further observe and comply with all applicable federal, state, municipal and local laws, ordinances, codes and

regulations that prohibit discrimination against individuals with disabilities or require that individuals with disabilities are not excluded from participating in or receiving benefits, services or activities of the City.

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

E. Contractor agrees to review the City of Berkeley Grievance Procedure and Policy form(s) and to provide them to individuals with disabilities who allege they have been discriminated against based on their disability or denied a requested disability accommodation by the Contractor's staff.

F. Contractor shall permit City access to records of employment, employment advertisement, application forms, grievances and/or complaints, EEO-1 forms, and any other documents which, in the opinion of City are necessary to monitor compliance with the non-discrimination provisions, and will, in addition, fill-out in a timely fashion, forms supplied by City to monitor these non-discrimination provisions, to the extent required by HUD Regulations at 24 C.F.R. Part 570.

ARTICLE 22. NUCLEAR FREE BERKELEY

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

ARTICLE 23. SANCTUARY CITY CONTRACTING

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

A. "Data Broker" means either of the following:
   1. The collection of information, including personal information about consumers, from a wide variety of sources for the purposes of reselling such information to their customers, which include both private-sector business and government agencies;

   2. The aggregation of data that was collected for another purpose from that for which it is ultimately used.

B. "Extreme Vetting" means data mining, threat modeling, predictive risk analysis, or other similar services. Extreme Vetting does not include:

   1. The City's computer-network health and performance tools;

   2. Cybersecurity capabilities, technologies and systems used by the City of Berkeley Department of Information Technology to predict, monitor for, prevent, and protect technology infrastructure and systems owned and operated by the City of Berkeley from potential cybersecurity events and cyber-forensic based investigations and prosecutions of illegal computer-based activity.

ARTICLE 24. BERKELEY LIVING WAGE ORDINANCE

A. Contractor hereby agrees to comply with the provisions of the Berkeley Living Wage Ordinance, B.M.C. Chapter 13.27. If Contractor is currently subject to the Berkeley Living Wage Ordinance, as indicated by the Living Wage Certification form, attached hereto, Contractor will be required to provide all eligible employees with City mandated minimum compensation during the term of this Contract, as defined in Chapter 13.27, as well as comply with the terms enumerated herein. Contractor expressly acknowledges that, even if Contractor is not currently subject to the Living Wage Ordinance, cumulative contracts, grants or other monies received by the City may subject Contractor to the requirements under B.M.C. Chapter 13.27 in subsequent contracts.

B. If Contractor is currently subject to the Berkeley Living Wage Ordinance, Contractor shall be required to maintain monthly records of those employees providing service under the Contract. These records shall include the total number of hours worked, the number of hours spent providing service under this Contract, the hourly rate paid, and the amount paid by Contractor for health benefits, if any, for each of its employees providing services under the Contract. These records are expressly subject to the auditing terms described in Article 32.

C. If Contractor is currently subject to the Berkeley Living Wage Ordinance, Contractor shall include the requirements thereof, as defined in B.M.C. Chapter 13.27, in any and all subcontracts in which Contractor engages to execute its responsibilities under this Contract. All contractor employees who spend 50% or more of their compensated time engaged in work directly related to this Contract shall be entitled to a living wage, as described in B.M.C. Chapter 13.27 and herein. All subcontractor employees who spend 25% or more of their compensated time engaged in work directly related to this Contract shall be entitled to a living wage, as described in B.M.C. Chapter 13.27 and herein.

D. If Contractor fails to comply with the requirements of this Section, the City shall have the rights and remedies described in this contract, in addition to any rights and remedies provided by law or equity.

E. Contractor's failure to comply with this Section shall constitute a material breach of the Contract, upon which City may terminate this Contract pursuant to Article 30. In the event that City terminates Contractor due to a default under this provision, City may deem Contractor a non-responsible bidder for not more than five (5) years from the date this Contract is terminated.

F. In addition, at City's sole discretion, Contractor may be responsible for liquidated damage in the amount of $50 per employee per day for each and every instance of an underpayment to an employee. It is mutually understood and agreed that Contractor's failure to pay any of its eligible employees at least the applicable living wage rate will result in damages being sustained by the City; that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damage set forth herein is the nearest and most exact measure of damage for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty or forfeiture for Contractor's breach. City may deduct any assessed liquidated damages from any payments otherwise due Contractor.

ARTICLE 25, BERKELEY EQUAL BENEFITS ORDINANCE

A. Contractor hereby agrees to comply with the provisions of the Berkeley Equal Benefits Ordinance, B.M.C. Chapter 13.29. If Contractor is currently subject to the Berkeley Equal Benefits Ordinance, as indicated by the Equal Benefits Certification form, attached hereto, Contractor will be required to provide all eligible employees with City mandated equal benefits, as defined in B.M.C. Chapter 13.29, during the term of this contract, as well as comply with the terms enumerated herein.

B. If Contractor is currently or becomes subject to the Berkeley Equal Benefits Ordinance, Contractor agrees to provide the City with all records the City deems necessary to determine compliance with this provision. These records are expressly subject to the auditing terms described in Article 32 of this contract.

C. If Contractor fails to comply with the requirements of this Section, City shall have the rights and remedies described in this contract, in addition to any rights and remedies provided by law or equity.

D. Contractor's failure to comply with this Section shall constitute a material breach of the Contract, upon which City may terminate this contract pursuant to Article 30. In the event the City terminates this contract due to a default by Contractor under this provision, the City may deem Contractor a non-responsible bidder for not more than five (5) years from the date this Contract is terminated.

E. In addition, at City's sole discretion, Contractor may be responsible for liquidated damages in the amount of $50.00 per employee per day for each and every instance of violation of this Section. It is mutually understood and agreed that Contractor's failure to provide its employees with equal benefits will result in damages being sustained by City; that the nature and amount of these damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein is the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty or forfeiture for Contractor's breach. City may deduct any assessed liquidated damages from any payments otherwise due Contractor.

ARTICLE 26, RELIGIOUS ACTIVITY PROHIBITED

There shall be no religious worship, instruction or proselytizing as part of or in connection with the performance of this contract.

ARTICLE 27, POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property or services contributed by the City under this contract shall be used in the performance of this contract to further the election or defeat of any candidate for public office, to support or defeat any ballot measure, for any partisan political activity, or for the conduct of political activities in contravention of Chapter 15 of Title 5, United States Code.

ARTICLE 28, NON-PROFIT STATUS

A. Except as herein provided, Contractor must be a non-profit corporation. Contractor shall furnish the City with a copy of its articles of incorporation, a copy of its by-laws, and a current list of its Board of Directors. If there are any changes in Contractor's non-profit status with the California Secretary of State, Contractor shall notify City within five (5) working days of the notice of said change. Loss of non-profit status or failure to maintain a status of good standing with the Secretary of State is cause for termination of the contract.

B. Contractor must be a neighborhood-based, non-profit organization, a small business investment company, or a local development corporation, according to the definitions set forth in 24 C.F.R. Part 570.204, to be eligible to undertake economic development or neighborhood revitalization activities pursuant to 24 C.F.R. Part 570.204(c). Contractor shall furnish the City with document(s), evidencing proof of such status. If there are any changes in such status, Contractor shall notify City within five (5) working days of said change. Failure to maintain eligible organizational status as required by Government regulations is cause for termination of the contract.

C. This provision may not necessarily apply to Contractor if Contractor is undertaking only rehabilitation activities pursuant to 24 C.F.R. Part 570.202 or economic development activities pursuant to 24 C.F.R. Part 570.203.

ARTICLE 29, CHANGES

A. The terms and conditions of this contract shall not be altered or otherwise modified except upon a duly

executed written amendment to this contract.

B. Contractor may request changes in the Scope of Services described in Exhibit A. Such changes, including any increase or decrease in the amount of the Contractor's compensation (Exhibit B), require City Manager approval and must be incorporated by written amendment to this contract.

ARTICLE 30, CONTRACT TERMINATION

This contract may be terminated for cause by Contractor upon thirty (30) days prior written notice. The City may terminate this contract in whole or in part without cause upon thirty (30) days' written notice to Contractor. The City may terminate this contract for cause upon five (5) days' written notice to Contractor. Causes for termination for cause may include, but are not limited to:

A. Failure, for any reason, of Contractor to fulfill in a timely and proper manner its obligations under this contract, including compliance with City, State and Federal laws and regulations and applicable directives.

B. Failure to meet the performance standards contained in Exhibit(s) A of this contract. When the City notifies the Contractor that its contract performance is below performance specifications as outlined in the contract Exhibits, a corrective action plan must be submitted in writing by Contractor to the City within thirty (30) days. Failure to achieve the performance specifications within a maximum of sixty (60) days is cause for immediate contract termination.

C. Improper use or reporting of funds provided under this contract.

D. Reduction, suspension or termination of funding or grant(s) to the City from any Federal or State sources under which this contract is made, or the full or portion of general funds earmarked for this contract or appropriated by the City Council for this contract.

E. Non-compliance with the City of Berkeley Employment of Near Relatives Policy.

F. A written notice shall be deemed served upon sending said notice in a postage-paid envelope addressed to the other party to this contract and depositing the same with the United States Post Office with postage prepaid. For purposes of this contract, all notices to the City shall be addressed as follows:

City Manager
City of Berkeley
2180 Milvia Street
Berkeley, CA 94704

For purposes of this contract, all notices to Contractor shall be addressed to Contractor's authorized signee as indicated on the last page of this contract to the address indicated on page 1 of this contract.

G. If either party terminates this contract before the Contractor completes the services in Exhibit(s) A, in addition to any other rights and remedies provided by law or under this contract, Contractor shall be entitled to compensation for services performed hereunder, through and including the date of termination, but not to exceed the payment according to the rate specified in Exhibit B. Contractor shall be entitled to all reasonable costs incurred in connection with such services. In no event will the amount paid exceed the full amount in Article 3 of this contract.

ARTICLE 31, CLOSE OUT PROCEDURES

Contractor shall prepare and submit a final invoice for final claims no later than sixty (60) days after the termination of this contract. The final invoice shall cover all claims for costs incurred by the Contractor during the period of the

contract. All unexpended funds shall be returned to the City. Where funds are due the City, payment should be made to CITY OF BERKELEY and must accompany the final invoice.

ARTICLE 32, AUDIT

All contractors receiving $750,000 or more in federal funds shall have their financial and compliance records, maintained in connection with the operations and services performed under this contract, audited annually by an independent auditing agent. The City reserves the right to select the auditing agent. This audit will be conducted in accordance with the Single Audit Act of 1984, 2 C.F.R. Part 200, and any other prescribed guidelines. Contractors receiving $750,000 or more in federal funds and choosing to select their own independent auditor shall provide the City with a copy of the audited Financial Statement which is to be prepared in compliance with 2 C.F.R. Part 200. Contractors receiving less than $750,000 in federal funds are exempt from audit pursuant to the Single Audit Act of 1984, but records must be available for review by appropriate officials. All contractors, regardless of the amount of federal funds received, are subject to State and Local regulations.

Pursuant to Section 61 of the Berkeley City Charter, the City Auditor's Office may conduct an audit of Contractor's financial, performance and compliance records maintained in connection with the operations and services performed under this Contract. In the event of such audit, Contractor agrees to provide the City Auditor with reasonable access to Contractor's employees and make all such financial, performance and compliance records available to the Auditor's Office. City agrees to provide Contractor an opportunity to discuss and respond to any findings before a final audit report is filed.

The City will provide Contractor with the preliminary draft of the audit report and hold a conference with Contractor to discuss the report if any findings are noted. Contractor shall respond to all findings within ten (10) working days after the conference. The auditing agent will then prepare its final audit report and submit it to the City Manager. City will notify contractor of any disallowed expenses. Contractor shall make payment of disallowed expenses to City within thirty (30) days of such notification, unless otherwise specified by the City. Failure to reimburse the City may result in the discontinuance of any or all City contracts with Contractor and may make Contractor ineligible for additional or further funds from the City.

ARTICLE 33, GOVERNING LAW

This contract shall be governed by the laws of the State of California.

ARTICLE 34, INDEPENDENT CONTRACTOR

A. Contractor shall be deemed at all times to be an independent contractor and shall be wholly responsible for the manner in which Contractor performs its obligations under this Agreement. Contractor shall be liable for its acts and omissions, and those of its employees and its agents. Nothing contained herein shall be construed as creating an employment, agency or partnership relationships between City and Contractor.

B. Terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only and not as to the means or methods by which such a result is obtained.

C. Nothing in this Contract shall operate to confer rights or benefits on persons or entities not party to this Contract.

ARTICLE 35, CITY BUSINESS LICENSE, PAYMENT OF TAXES, TAX I.D. NUMBER

Contractor has obtained a City business license as required by B.M.C. Ch. 9.04, and its license number is written below; or, Contractor is exempt from the provisions of B.M.C. Ch. 9.04 and has written below the specific B.M.C. section under which it is exempt. Contractor shall pay all state and federal income taxes and any other taxes due. Contractor certifies under penalty of perjury that the taxpayer identification number written below is correct.

ARTICLE 36, ENTIRE AGREEMENT

A. The terms and conditions of this contract and all exhibits attached hereto or documents expressly incorporated by reference therein represent the entire contract between the parties hereto with respect to the subject matter hereof, and this contract shall supersede any and all other prior contracts, either oral or written, regarding the subject matter between the City and Contractor. No other contract, statement, or promise relating to the subject matter of this contract shall be valid or binding except upon a duly executed written amendment to this contract.

B. Should any conflicts arise between the terms and conditions of this contract and the terms and conditions of any exhibits attached hereto or documents expressly incorporated by reference therein, the terms and conditions of Federal Regulations shall control.

ARTICLE 37, OWNERSHIP OF DOCUMENTS

A. When this contract is terminated Contractor agrees to return to City all documents, drawings, photographs and other written or graphic material, however produced, that it received from City, its contractors or agents, in connection with the performance of its services under this contract. All materials shall be returned in the same condition as received.
B. All internal work, papers, internal drawings, internal memoranda of any kind, photographs, and any written or graphic material, however produced, prepared by Contractor in connection with its performance of services under this contract, shall be, and shall remain after termination of this contract, the property of Contractor. Contractor may use that material for any purpose whatsoever. However, if either party terminates this contract before Contractor completes all services required under Article 1, the latest set of draft documents shall be and shall remain the property of the City.

C. The final written product of this contract shall be the property of the City. City may use all or any part of the product for projects other than those contemplated by this contract. Contractor shall not be liable for any improper reuse of the product. City may also retain the original of any design documents upon request.

ARTICLE 38, SETOFF AGAINST DEBTS

Contractor agrees that City may deduct from any payments due to Contractor any monies that Contractor owes the City under any Ordinance, contract, or Resolution for any unpaid taxes, fees, licenses, unpaid checks, or other amounts.

ARTICLE 39, RECYCLED PAPER FOR WRITTEN REPORTS

If Contractor is required by this contract to prepare a written report or study, Contractor shall use recycled paper for said report or study when such paper is available at a cost of not more than ten percent more than the cost of virgin paper, and when such paper is available at the time it is needed. For the purposes of this contract, recycled paper is paper that contains at least 50% recycled product. If recycled paper is not available, Contractor shall use white paper. Written reports or studies prepared under this contract shall be printed on both sides of the page whenever practical.

ARTICLE 40, SAFETY DATA SHEETS

A. To comply with the City's Hazard Communication Program, Contractor agrees to submit Safety Data Sheets (SDS) for all products Contractor intends to use in the performance of work under this contract in any City facility. The SDS for all products must be submitted to the City before commencing work. The SDS for a particular product must be reviewed and approved by the City's Employee Relations Officer before

Contractor may use that product.

B. City will inform Contractor about hazardous substances to which it may be exposed while on the job site and protective measures that can be taken to reduce the possibility of exposure

ARTICLE 41, SEVERABILITY OF PROVISIONS

Should a provision of this contract be held invalid by a court of competent jurisdiction, the remaining provisions hereof shall continue to be valid and enforceable.

ARTICLE 42, ASSIGNMENT

This contract may not be assigned without the prior written consent of the City.

IN WITNESS WHEREOF, the City and Contractor have executed this contract through their duly authorized representatives as of the date first above written.

CITY OF BERKELEY

By: _____
City Manager

THIS CONTRACT HAS BEEN APPROVED AS TO FORM BY THE CITY ATTORNEY FOR THE CITY OF BERKELEY
10/2019

Registered on behalf of the City Auditor by: _____
Finance Department

Attest by: _____
City Clerk

CONTRACTOR

Agency Name: Eviction Defense Center

By: _____

Title: EXEC. DIR.

IRS Tax I.D. No.: _____

B.M.C. § N/A

Berkeley Business License No.: BL-030676

Incorporated: Yes ☒ No ☐

Subject of Contract: Housing Retention Program

Eviction Defense Center
EXHIBIT A
SCOPE OF SERVICES

Agency Name: Eviction Defense Center

Contract Period: July 1, 2024 (FY25) to June 30, 2028 (FY28)

Program Title: Housing Retention Program

A. Agency-Wide Requirements

1. **Communication with City:** Contractor shall provide timely communication with the City contract monitor regarding emerging issues and concerns regarding the program and its relationship with the larger Berkeley community.

2. **Cooperation with Alameda County 211:**
   Contractor shall:
   - Upon request, provide staff of Eden I&R updated information on all Contractor programs and services, including program contact information, service descriptions and significant programmatic changes, so that information on all agency programs and services can be contained in Eden I&R's 211 database; and
   - For residential programs, provide staff of Eden I&R updated information on any vacancies in the program; and
   - Prominently place the 2-1-1 logo and weblink on the agency website to inform Alameda County residents of the service.

3. **Contractor's List Of Authorized Signatories:** For Advance Payment Requests and Quarterly Statements of Expense (or other cost documentation, as required):
   a. Anne Tamiko Omura

4. Program Staffing: Contractor will staff Program(s) as shown in each Program Budget in Exhibit B. Contractor must provide written notice and resume to the City for any new staff person, five days prior to making any change.

5. Reporting Results and Outcome Evaluation: The City is committed to evaluating the impact of funded programs on the community, especially for those most vulnerable. To support this effort the Community Funding Program housed in HCS will use a framework to evaluate programs. Using a common framework will aid the Community Funding program in having a common language and method to better understand, communicate, and ultimately strengthen our partner programs.

The Community Funding Program is incorporating and refining positive impact measures into our contract processes including reporting, contract monitoring activities and evaluations. The City will work with providers throughout the contract period to update and identify appropriate performance measures including service measures and outcomes. Processes will be developed to monitor and improve performance over time.

Contractor shall:

- work with the City to report accurate and complete program data in City Data Services including client demographics, duplicated/unduplicated counts and impact measures; and
- work with the City to improve and refine the service measures and outcomes as needed using the City-identified framework;
- develop (and upload to CDS) a client satisfaction survey that, at minimum, collects required elements as found in **Attachment C**;
- report satisfaction survey results to the City at the end of the program or end of fiscal year (whichever comes first).

Additionally, by signing this contract, the Contractor acknowledges and agrees that the City may publish full or partial reports including program results and outcome evaluation for public review, including, but not limited to publishing on the City's website.

B. Program-Specific Requirements

1. Program Name: Housing Retention Program

2. **Target Population:**

HOME-ARP ONLY-The target population to be served is households where the tenant 1) Resides in the City of Berkeley or is a Berkeley Shelter Plus Care participant living outside of the City of Berkeley, 2) has a notice of eviction 3) can demonstrate a recent financial hardship (financial shock) AND 4) Meets the criteria for Other Populations listed in the attached Policies and Procedures **(Attachment D, page 3)** as defined in CPD-21-10 Section IV A 4 1 & 2 **(Attachment F, page 7)**.

U1 ONLY-The target population to be served is households where the tenant 1) Resides in the City of Berkeley OR a Shelter Plus Care participant 2) has a notice of eviction 3) can demonstrate a recent financial hardship (financial shock), 4) who are at imminent risk of homelessness, and 5) Meets the criteria in U1 Housing Retention Grant Policies and Procedures **(Attachment E, page 3)**.

3. **Project Description:**

a. The City of Berkeley Housing Retention Program (HRP) will provide financial assistance to cover past-due rent, and in some cases utility arrears and/or short-term rental assistance to low income Berkeley residents. The HRP is funded with HOME-ARP and U1 funds, this program aims to prevent eviction by addressing immediate financial burdens through rental assistance payments. Eligible participants can receive direct payments to landlords and utility providers, ensuring they remain housed.

Participant Eligibility

An applicant must be:

(1) Resides in City of Berkeley or a Berkeley Shelter Plus Care participant;
(2) Have been notified in writing that their right to occupy their current housing or living situation is in imminent jeopardy unless arrears are paid;
(3) Have experienced a recent financial hardship including;
  (i) A recent loss in income, or
  (ii) A significant and unexpected increase in expenses (medical, funeral expenses, loss of roommate), or
  (iii) A work-related vehicle expense for a vehicle required for work

AND in addition to the above criteria, the household must meet the following criteria:

(4) HOME-ARP funded Housing Retention Grants Only:
  (a) Meet the criteria for Other Populations as defined in CPD-21-10 Section IV A 4'1 & 2 (page 7). See HOME-ARP Policies and Procedures **(Attachment D, page 3)**.

OR

(5) City of Berkeley U1 Funded Housing Retention Grants:
  (a) Who are at imminent risk of homelessness
  (b) Meets the criteria in U1 Housing Retention Grant Policies and Procedures **(Attachment E, page 3)**.

Contractor shall deliver the service measures and outcomes contained in the table below:

4. Number of Clients to be served:

Characteristics of Participants to be Served:	**Number**
a. Total number of clients to be served (Berkeley and non-Berkeley)	90
b. Total number of Berkeley clients to be served:	90
c. Total number of Berkeley clients with disabilities to be served:	30
d. Total number of Berkeley homeless clients to be served:	
e. Total number of Berkeley chronically homeless clients to be served:	
f. Total number of Berkeley Female Heads of Household to be served:	30

5. Income Requirements and Documentation: Contractor shall prioritize serving clients with incomes of less than or equal to 50% of Area Median Income or below (see Attachment A for current income levels and instructions for reporting income). Contractor must document income in one of the following three ways: (The required method is checked):

☒ Documentation that verifies income;

☒ Client Self-Certification of Income (see attached form); or

☒ Documentation that verifies that a client belongs to a category of people who are presumed to have a particular income level (see Instructions in Attachment A and suggested self-certification language in Attachment B).

Presumed Category:

6. Client Access:

a. Outreach & Referrals.

i. Contractor will perform outreach as described below.

☐ No

☒ Yes.

The EDC has worked with the Berkeley Rent Board, the Berkeley Unified School District, and different nonprofit housing providers to spread information about the program. Additionally, the EDC sends attorneys to Berkeley Food Pantries and Soup Kitchens to do outreach to vulnerable communities.

ii. Contractor shall foster and formalize relations with other organizations to develop a referral system and effectively provide clients with appropriate services.

iii. Formal Referral or Partnership Agreements Required by City?

☒ No

☐ Yes.

As needed and possible, EDC will refer households to mainstream income, benefit, rental subsidy resources, as appropriate to increase housing stability.

b. Intake Requirement. The contractor shall capture all data contained in the sample Intake Form found in Attachment B. A copy of the Contractors Intake Form must be attached to this Scope of Service.

c. Eligibility. The program Eligibility criteria are in accordance with the funding source, to be approved by City staff, and updated as needed. Please describe the current program eligibility:

d. Grievance Policy: The program shall inform participants of the grievance policy upon initiation of services with the agency or program in accordance with the agency's grievance policy on file with the City in the contract management system. Please describe:

HRP applicants will receive the program's Grievance policy at Intake

7. Project Coordination with Coordinated Entry System
The contractor will comply with the following requirements:

Homeless Services Placements (SSI, Rep Payee, AOD, DV, Year-round Shelter, Transitional Housing, PSH/S+C)
Not Applicable

Residential Programs (Year-round Shelter, Transitional Housing)
Not Applicable

Permanent Supportive Housing/Shelter Plus Care
Not Applicable

Participate in Berkeley and County CES meetings (All Homeless Services Agencies)
Not Applicable

8. Other Requirements:

A. American Rescue Plan-HOME ARP Funding Requirements

This program qualifies for implementation of American Rescue Plan Act of 2021 (ARP) funds because of its response to housing instability and homelessness reduction. Specifically, this program will provide rental arrears assistance to eligible Berkeley residents. The use of ARP funds to implement this program will decrease housing instability for low-income Berkeley tenants.

1. Funds provided through this contract are a sub-award from the City of Berkeley of the federal American Recovery Plan Act ("ARP") for the HOME Investment Partnerships Program (HOME) to provide homelessness assistance and supportive services.
2. Funds are being awarded by the City for the City's Housing Retention Program, an Eviction Prevention Program, which is an eligible activity under the Supportive Services- Financial Assistance (R) Section.
3. The Program will serve households who meet the criteria for Other Populations as defined in CPD-21-10 Section IV A 4 1 & 2 (Page 7). The reporting requirements listed below will support this ARP requirement.
4. The Eviction Defense Center, a legal services agency, will review and approve applications that meet HOME-ARP criteria and will also refer households to mainstream income and benefit resources, as appropriate to increase housing stability.
5. All activities associated with this contract are subject to the applicable federal ARP requirements, including but not limited to the Interim Final Rule, the Compliance and Reporting Guidelines, and the Frequently Asked Questions (FAQ), as updated. The U.S. Department of the Treasury has made all of these materials available online at: https://www.hudexchange.info/programs/home-arp/

C. Annual and Quarterly Required Reports

1. Advance Payment Requests are due quarterly* by:
   ☒ July 15
   ☒ September 15
   ☒ December 15
   ☒ March 15

2. Program Reports are due by:
   ☒ October 31, for period ending September 30 (federally funded only)
   ☒ January 31, for period ending December 31
   ☒ April 30, for period ending March 31 (federally funded only)
   ☒ **July 31, for period ending June 30.**

3. Statements of Expense are due quarterly by:
   ☒ October 31, for period ending September 30
   ☒ January 31, for period ending December 31
   ☒ April 30, for period ending March 31
   ☒ August 31, for period ending June 30.

4. General Ledger and Statement of Revenues and Expenditures (for the Program) are due by:
   ☒ August 31, for the period covering July 1 to June 30.

5. Equipment Inventory Tracking Sheet is due by:
   ☒ August 31, for the period covering July 1 to June 30.

6. Others...(reports are required if the box next to the report is checked)

   ☐ Contractor agrees to allow the City of Berkeley to include data from Contractor's HMIS data programs to create cumulative demographic and outcome reports, and to allow the City to request reports directly from Alameda County HMIS administrators that include Contractor's data.

   ☐ Contractor shall provide annual Shelter Plus Care outcome reports, value of match services reports, and other HUD-required reports within timeline designated by the City of Berkeley Shelter Plus Care program.

   ☐ Contractor shall provide periodic Community Services Block Grant (CSBG) reports within time lines designated by the City.

   ☐ Other:

*Advance payments will be held if program reports and statements of expense are more than one quarter late. Reports may be requested on a more frequent basis per the needs of the City.

7. **Other Requirements:**
   A. Reporting -
   I. EDC must report on a weekly basis the following:
      a. Expenditures:
         i. Current period obligation/encumbrance
         ii. Cumulative obligation/encumbrance
         iii. Current period expenditure
         iv. Cumulative expenditure
      b. EDC must report on a quarterly basis, by the 15th of the following month, the following:
         i. number of new households served during the prior quarter
         ii. number of new households receiving an eviction prevention grant in the prior quarter
         iii. number of veteran households served
         iv. number of Hispanic households served
         v. number of households served by race (White, Black, Asian, American Indian/Alaskan Native, Native Hawaiian/Pacific Islander, Other/Multi-Racial)
         vi. Housing Status (Homeless and Non-Homeless Households)
         vii. House Hold Size
         viii. Household Type (Single, Non-elderly, Elderly, Single Parent, Two Parents, Others)
   II. **City Data Services Housing Retention Module**
      a. All Housing Retention applications must be completed in the City Data Services Housing Retention Module.
      b. All application statuses (approved, denied) must be recorded in the City Data Services Housing Retention Module.
      c. All payments must be recorded in the City Data Services Housing Retention Module.

Attachments:

A: Income Documentation Instructions
B. Agency Intake Form
C: Client Satisfaction Survey Required Elements
D: HOME-ARP Housing Retention Policy and Procedures
E: U1 Housing Retention Policy and Procedures
F. CPD Notice

U.S. Department of Housing and Urban Development
Community Planning and Development

Special Attention of:

CPD Division Directors
All HOME Coordinators
All HOME Participating Jurisdictions

Notice: CPD-21-10

Issued: September 13, 2021

Expires: **This NOTICE is effective until it is amended, superseded, or rescinded**
Cross Reference: 24 CFR Part 92

Subject: Requirements for the Use of Funds in the HOME-American Rescue Plan Program

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Appendix – Waivers and Alternative Requirements for HOME Investment Partnerships Program – American Rescue Plan (HOME-ARP)

I. PURPOSE

This Notice establishes requirements for funds appropriated under section 3205 of the American Rescue Plan Act of 2021 (P.L. 117-2) ("**ARP**") for the HOME Investment Partnerships Program (HOME) to provide homelessness assistance and supportive services.

II. BACKGROUND

On March 11, 2021, President Biden signed ARP into law, which provides over $1.9 trillion in relief to address the continued impact of the COVID-19 pandemic on the economy, public health, State and local governments, individuals, and businesses.

To address the need for homelessness assistance and supportive services, Congress appropriated $5 billion in ARP funds to be administered through HOME to perform four activities that must primarily benefit qualifying individuals and families who are homeless, at risk of homelessness, or in other vulnerable populations. These activities include: (1) development and support of affordable housing, (2) tenant-based rental assistance (TBRA), (3) provision of supportive services; and (4) acquisition and development of non-congregate shelter units. The program described in this notice for the use of the $5 billion in ARP funds is the **HOME-American Rescue Plan** or "**HOME-ARP.**"

ARP defines qualifying individuals or families as those that are (1) homeless, as defined in section 103(a) of the McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. 11302(a)) ("**McKinney-Vento**"); (2) at risk of homelessness, as defined in section 401 of McKinney-Vento; (3) fleeing, or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking; (4) part of other populations where providing supportive services or assistance would prevent a family's homelessness or would serve those with the greatest risk of housing instability; or (5) veterans and families that include a veteran family member that meet the criteria in one of (1)-(4) above.

ARP authorized HUD to allocate HOME-ARP funds to states, units of general local government, insular areas, and consortia of units of general local government that qualified for an allocation of HOME funds in Fiscal Year (FY) 2021, pursuant to section 217 of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended (42 U.S.C. 12701 et seq.) ("**NAHA**"). On April 8, 2021, HUD allocated HOME-ARP funds to 651 grantees using the HOME formula established at 24 CFR 92.50 and 92.60. The HOME-ARP allocation amounts can be found here.

III. ESTABLISHMENT OF HOME-ARP REQUIREMENTS

ARP provides funds for homelessness and supportive services assistance under the HOME statute of Title II of NAHA (42 U.S.C. 12721 et seq.) and authorizes the Secretary of HUD to waive or specify alternative requirements for any provision of NAHA or regulation for the administration of the HOME-ARP program, except requirements related to fair housing, civil rights, nondiscrimination, labor standards, and the environment, upon a finding that the waiver

or alternative requirement is necessary to expedite or facilitate the use of HOME-ARP funds. Pursuant to ARP, the per-unit cost limits (42 U.S.C. 12742(e)), commitment requirements (42 U.S.C. 12748(g)), matching requirements (42 U.S.C. 12750), and set-aside for housing developed, sponsored, or owned by community housing development organizations (CHDOs) (42 U.S.C. 12771) in NAHA do not apply to HOME-ARP funds.

This Notice describes the requirements applicable to a participating jurisdiction's (PJ's) use of HOME-ARP funds. Consolidated plan requirements for HOME are in title I of NAHA and 24 CFR part 91. HOME program regulations are in 24 CFR part 92. Except as described in ARP and this Notice, HOME statutory and regulatory provisions apply to a PJ's use of HOME-ARP funds. Sections I-IX of this Notice describe the HOME-ARP requirements imposed on a PJ for the use of HOME-ARP funds to assist the qualifying populations through HOME-ARP projects or activities. The Appendix describes the waivers and alternative requirements imposed on PJs for the use of HOME-ARP funds and is included in any reference to "this Notice." Specific citations in the Notice shall mean the statute or regulation cited, as may be revised by the Appendix to this Notice. PJs and insular areas must comply with all applicable statutory, regulatory, and alternative requirements, as described in this Notice, including the Appendix.

IV. QUALIFYING POPULATIONS, TARGETING AND PREFERENCES

ARP requires that funds be used to primarily benefit individuals and families in the following specified "qualifying populations." Any individual or family who meets the criteria for these populations is eligible to receive assistance or services funded through HOME-ARP without meeting additional criteria (e.g., additional income criteria). All income calculations to meet income criteria of a qualifying population or required for income determinations in HOME-ARP eligible activities must use the annual income definition in 24 CFR 5.609 in accordance with the requirements of 24 CFR 92.203(a)(1).

A. Qualifying Populations

1. **Homeless**, as defined in 24 CFR 91.5 *Homeless* (1), (2), or (3):

(1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

(i) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

(ii) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or

(iii) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

(2) An individual or family who will imminently lose their primary nighttime residence, provided that:

(i) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;

(ii) No subsequent residence has been identified; and

(iii) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks needed to obtain other permanent housing;

(3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:

(i) Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);

(ii) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;

(iii) Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and

(iv) Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment;

2. **At risk of Homelessness**, as defined in 24 CFR 91.5 *At risk of homelessness*:

(1) An individual or family who:

(i) Has an annual income below 30 percent of median family income for the area, as determined by HUD;

(ii) Does not have sufficient resources or support networks, *e.g.,* family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the "Homeless" definition in this section; and

(iii) Meets one of the following conditions:

(A) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;

(B) Is living in the home of another because of economic hardship;

(C) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;

(D) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals;

(E) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;

(F) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or

(G) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan;

(2) A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(l) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(l)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or

(3) A child or youth who does not qualify as "homeless" under this section but qualifies as "homeless" under section 725(2) of the McKinney-Vento Homeless Assistance Act (42

U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

3. **Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking**, as defined by HUD.

   For HOME-ARP, this population includes any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking. This population includes cases where an individual or family reasonably believes that there is a threat of imminent harm from further violence due to dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return or remain within the same dwelling unit. In the case of sexual assault, this also includes cases where an individual reasonably believes there is a threat of imminent harm from further violence if the individual remains within the same dwelling unit that the individual is currently occupying, or the sexual assault occurred on the premises during the 90-day period preceding the date of the request for transfer.

   Domestic violence, which is defined in 24 CFR 5.2003 includes felony or misdemeanor crimes of violence committed by:

   1) A current or former spouse or intimate partner of the victim (the term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship);
   2) A person with whom the victim shares a child in common;
   3) A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
   4) A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving HOME-ARP funds; or
   5) Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

   Dating violence which is defined in 24 CFR 5.2003 means violence committed by a person:

   1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
   2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
      a. The length of the relationship;
      b. The type of relationship; and
      c. The frequency of interaction between the persons involved in the relationship.

Sexual assault which is defined in 24 CFR 5.2003 means any nonconsensual sexual act proscribed by Federal, Tribal, or State law, including when the victim lacks capacity to consent.

Stalking which is defined in 24 CFR 5.2003 means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

1) Fear for the person's individual safety or the safety of others; or
2) Suffer substantial emotional distress.

Human Trafficking includes both sex and labor trafficking, as outlined in the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7102). These are defined as:

1) *Sex trafficking* means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

2) *Labor trafficking means* the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

4. **Other Populations** where providing supportive services or assistance under section 212(a) of NAHA (42 U.S.C. 12742(a)) would prevent the family's homelessness or would serve those with the greatest risk of housing instability. HUD defines these populations as individuals and households who do not qualify under any of the populations above but meet one of the following criteria:

(1) **Other Families Requiring Services or Housing Assistance to Prevent Homelessness** is defined as households (i.e., individuals and families) who have previously been qualified as "homeless" as defined in 24 CFR 91.5, are currently housed due to temporary or emergency assistance, including financial assistance, services, temporary rental assistance or some type of other assistance to allow the household to be housed, and who need additional housing assistance or supportive services to avoid a return to homelessness.

(2) **At Greatest Risk of Housing Instability** is defined as household who meets either paragraph (i) or (ii) below:

(i) has annual income that is less than or equal to 30% of the area median income, as determined by HUD and is experiencing severe cost burden (i.e., is paying more than 50% of monthly household income toward housing costs);

(ii) has annual income that is less than or equal to 50% of the area median income, as determined by HUD, **AND** meets one of the following conditions from paragraph (iii) of the "At risk of homelessness" definition established at 24 CFR 91.5:

(A) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;

(B) Is living in the home of another because of economic hardship;

(C) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;

(D) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by Federal, State, or local government programs for low-income individuals;

(E) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 persons reside per room, as defined by the U.S. Census Bureau;

(F) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or

(G) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan

Veterans and Families that include a Veteran Family Member that meet the criteria for one of the qualifying populations described above are eligible to receive HOME-ARP assistance.

B. Use of Funds to Benefit Qualifying Populations

ARP states that funds must be used to primarily benefit the qualifying populations through the four eligible activities: (1) TBRA, (2) development and support of affordable housing, (3) provision of supportive services; and (4) acquisition and development of non-congregate shelter (NCS) units. Recognizing the urgent needs of individuals and families in qualifying populations, HUD is requiring that:

- 100% of HOME-ARP funds used by a PJ for TBRA, supportive services, and acquisition and development of non-congregate shelter units must benefit individuals and families in qualifying populations. Individuals and families in qualifying populations may be assisted by one or more of the HOME-ARP eligible activities, consistent with the requirements in this Notice.
- Not less than 70 percent of affordable rental housing units acquired, rehabilitated, or constructed with HOME-ARP funds by a PJ must be occupied by households in the qualifying populations. Units that are not restricted to occupancy by qualifying populations are subject to income targeting and rent requirements established under the

HOME-ARP Rental Program rules and are only permitted in projects with rental units restricted for occupancy by qualifying populations.

HUD recognizes that, because many households in the qualifying populations are unable to pay rents sufficient to cover unit operating costs, PJs and project owners should attempt to obtain Federal or state project-based rental subsidies, if available. Since project-based rental subsidies can be difficult to secure, additional flexibility may be necessary to structure and underwrite projects so that they remain both affordable and financially viable. HUD is providing PJs with additional flexibilities in Section VI.B. to structure and underwrite HOME-ARP rental projects so they remain financially viable during the minimum compliance period. One of these flexibilities is permitting up to 30 percent of HOME-ARP rental housing units funded by a PJ to be occupied by low-income households. PJs are encouraged to use this flexibility only when it is required to facilitate development of a HOME-ARP rental project.
PJs must determine and document that households meet the definition of a qualifying population or, for the portion of HOME-ARP rental units not restricted to these populations, that households are low-income.

C. Preferences Among Qualifying Populations, Referral Methods, and Subpopulations

1. Preferences

ARP establishes the qualifying populations that are eligible for assistance with HOME-ARP funds. A PJ may establish reasonable preferences among the qualifying populations to prioritize applicants for HOME-ARP projects or activities based on the PJ's needs and priorities, as described in its HOME-ARP allocation plan. For example, a PJ may set a preference among qualifying individuals and families for a HOME-ARP non-congregate shelter for individuals and families who are homeless; fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking; and veterans and families with a veteran family member that meet the criteria of one of these prior qualifying populations, consistent with its HOME-ARP allocation plan.

The PJ must comply with all applicable fair housing, civil rights, and nondiscrimination requirements, including but not limited to those requirements listed in 24 CFR 5.105(a) when applying preferences through its referral methods. Persons who are eligible for a preference must have the opportunity to participate in all HOME-ARP activities of the PJ in which they are eligible under this Notice, including activities that are not separate or different, and cannot be excluded because of any protected characteristics or preferential status.

Targeted assistance: If HOME-ARP funds are used for TBRA, the PJ may establish a preference for individuals with special needs or persons with disabilities among the HOME-ARP qualifying populations. Within the qualifying populations, participation may be limited to persons with a specific disability only, if necessary, to provide effective housing, aid, benefit, or services that would be as effective as those provided to others in accordance with 24 CFR 8.4(b)(1)(iv). The PJ may also provide a preference for a specific category of individuals with disabilities (e.g., persons with HIV/AIDS or chronic mental illness) within the qualifying

populations only if the specific category is identified in the PJ's HOME-ARP allocation plan as having unmet need and the preference is needed to narrow the gap in benefits and services received by such persons.

2. Referral Methods for Projects or Activities

A PJ may use the referral methods described below to administer HOME-ARP assistance to qualifying individuals and families. Regardless of the referral method used by the PJ, HUD holds the PJ responsible for determining and documenting that beneficiaries meet the definition of a qualifying population or, for the portion of HOME-ARP rental units not restricted to qualifying populations, that beneficiaries are low-income.

A PJ may use the coordinated entry or coordinated entry process (CE) of a continuum of care (CoC) for referrals for projects and activities as described below. Under 24 CFR 578.3, a CE is a centralized or coordinated process designed to coordinate program participant intake assessment and provision of referrals within a defined area. HUD requires each CoC to establish and operate a CE with the goal of increasing the efficiency of local crisis response systems and improving fairness and ease of access to resources, including mainstream resources. A PJ may permit a CoC CE to collect information and documentation required to determine whether an individual or family meets the criteria of a HOME-ARP qualifying population at any point in the coordinated entry process, (i.e., after or concurrently with the assessment and intake processes) as long as that information is not used to rank a person for HOME-ARP assistance other than as specified by the preferences or method of prioritization established by the PJ, in accordance with HOME-ARP requirements. If the PJ uses CE, the PJ cannot require HOME-ARP victim service providers to use the CE but may permit them to do so.

The PJ must comply with all applicable nondiscrimination and equal opportunity laws and requirements listed in 24 CFR 5.105(a) and any other applicable fair housing and civil rights laws and requirements when using the following referral methods:

i. Use of Expanded CE in HOME-ARP

Under this referral method, a PJ may use a CE established by a CoC operating within its boundaries for one or more projects or activities if the CE accepts all HOME-ARP qualifying populations eligible for those activities or projects, in accordance with the preferences and prioritization, if any, established or approved by the PJ in its HOME-ARP allocation plan and imposed through the PJ's written agreements.

Before using a CoC's CE, PJs should consider whether the CE covers the same service area as the HOME-ARP project or activity that would use that CE. At a minimum, the PJ must establish policies and procedures that describe the relationship of the geographic area(s) served by the project or activity to the geographic area(s) covered by the CoC CE and address how the CE will provide access and implement uniform referral processes in situations where a project's geographic area(s) is broader than the geographic area(s) covered by the CE.

The PJ must require a project or activity to use CE along with other referral methods (as provided in section ii below) or to use only a project/activity waiting list (as provided in section iii below) if:

1. the CE does not have a sufficient number of qualifying individuals and families to refer to the PJ for the project or activity;
2. the CE does not include all HOME-ARP qualifying populations; or,
3. the CE fails to provide access and implement uniform referral processes in situations where a project's geographic area(s) is broader than the geographic area(s) covered by the CE.

ii. Use of CE with Other Referral Methods

The PJ may use a CoC CE with additional referrals from outside organizations or project-specific waiting lists consistent with HOME-ARP requirements. If using this referral method, the PJ must establish or approve any preferences or prioritization criteria applied by a CoC CE or other referral sources. The PJ may also use a waiting list to receive referrals from a CoC CE and other referral agencies for a project or activity, where a CoC CE or referral agency refers an applicant that is placed on the waiting list for that project or activity in chronological order.

If applicable, a PJ must establish policies and procedures for applying a PJ's established preferences and method of prioritization, if any, when accepting direct referrals from a CoC CE and other referral agencies and must document that such the policies and procedures were followed for each applicant served.

iii. Use of a Project/Activity Waiting List

The PJ may establish a waiting list for each HOME-ARP project or activity. All qualifying individuals or families must have access to apply for placement on the waiting list for an activity or project. Qualifying individuals or families on a waiting list must be accepted in accordance with the PJ's preferences, if any, consistent with this Notice or, if the PJ did not establish preferences, in chronological order, insofar as practicable.

3. Limiting Eligibility to Subpopulations

PJs must follow all applicable fair housing, civil rights, and nondiscrimination requirements, including but not limited to those requirements listed in 24 CFR 5.105(a). This includes, but is not limited to, the Fair Housing Act, Title VI of the Civil Rights Act, section 504 of Rehabilitation Act, HUD's Equal Access Rule, and the Americans with Disabilities Act, as applicable.

HOME-ARP rental housing or NCS may be limited to a specific subpopulation of a qualifying population identified in Section IV.A. of this Notice, so long as admission does not discriminate against any protected class under federal nondiscrimination laws in 24 CFR 5.105 (*e.g.,* the housing may be limited to homeless households and at risk of homelessness households,

veterans and their families, victims of domestic violence, dating violence, sexual assault, stalking or human trafficking and their families).

Recipients may limit admission to or provide a preference for HOME-ARP rental housing or NCS to households who need the specialized supportive services that are provided (e.g., domestic violence services). However, no otherwise eligible individuals with disabilities or families including an individual with a disability who may benefit from the services provided may be excluded on the grounds that they do not have a particular disability.

Consistent with the statutory authority under ARP, HOME-ARP NCS may be converted to permanent housing under the CoC program or used as shelters under the ESG program, when all program and fair housing and nondiscrimination requirements are met. As such, HOME-ARP NCS may need to limit eligibility to households that are homeless and/or at risk of homelessness if the shelter will be converted to permanent housing under the CoC program or used as an emergency shelter in the ESG program.

V. HOME-ARP ALLOCATION PLAN

PJs develop annual action plans as part of their application for HOME funding. To receive its HOME-ARP funds, a PJ must engage in consultation and public participation processes and develop a HOME-ARP allocation plan that meets the requirements established in this section of the Notice and submit it to HUD as a substantial amendment to its Fiscal Year 2021 annual action plan. HUD is using the waiver and alternative requirement authority provided by ARP to establish requirements for the HOME-ARP allocation plan in this Notice. The HOME-ARP allocation plan must describe how the PJ intends to distribute HOME-ARP funds, including how it will use these funds to address the needs of HOME-ARP qualifying populations. A PJ's HOME-ARP allocation plan must include:

- A summary of the consultation process and results of upfront consultation;
- A summary of comments received through the public participation process and a summary of any comments or recommendations not accepted and the reasons why;
- A description of HOME-ARP qualifying populations within the jurisdiction;
- An assessment of unmet needs of each qualifying population;
- An assessment of gaps in housing and shelter inventory, homeless assistance and services, and homelessness prevention service delivery system;
- A summary of the planned use of HOME-ARP funds for eligible activities based on the unmet needs of the qualifying populations;
- An estimate of the number of housing units for qualifying populations the PJ will produce or preserve with its HOME-ARP allocation; and
- A description of any preferences for individuals and families in a particular qualifying population or a segment of a qualifying population.

All the above required elements of the HOME-ARP allocation plan shall be part of the FY 2021 annual action plan for purposes of the HOME-ARP program. Consequently, PJs are not required to amend their consolidated plans.

A. Consultation

Before developing its HOME-ARP allocation plan, a PJ must consult with agencies and service providers whose clientele include the HOME-ARP qualifying populations to identify unmet needs and gaps in housing or service delivery systems. In addition, a PJ should use consultation to determine the HOME-ARP eligible activities currently taking place within its jurisdiction and potential collaborations for administering HOME-ARP. This consultation will provide a basis for the PJ's strategy for distributing HOME-ARP funds for eligible activities to best meet the needs of qualifying populations. At a minimum, a PJ must consult with the CoC(s) serving the jurisdiction's geographic area, homeless and domestic violence service providers, veterans' groups, public housing agencies (PHAs), public agencies that address the needs of the qualifying populations, and public or private organizations that address fair housing, civil rights, and the needs of persons with disabilities. State PJs are not required to consult with every PHA or CoC within the state's boundaries; however, local PJs must consult with all PHAs (including statewide or regional PHAs) and CoCs serving the jurisdiction. In its plan, a PJ must describe its consultation process, list the organizations consulted, and summarize the feedback received from these entities.

B. Public Participation

PJs must provide for and encourage citizen participation in the development of the HOME-ARP allocation plan. Before submitting the HOME-ARP allocation plan to HUD, PJs must provide residents with reasonable notice and an opportunity to comment on the proposed HOME-ARP allocation plan of no less than 15 calendar days. The PJ must follow its adopted requirements for "reasonable notice and an opportunity to comment" for plan amendments in its current citizen participation plan. In addition, PJs must hold at least one public hearing during the development of the HOME-ARP allocation plan prior to submitting the plan to HUD.

For the purposes of HOME-ARP, PJs are required to make the following information available to the public:

- The amount of HOME-ARP funds the PJ will receive.
- The range of activities the PJ may undertake.

A PJ must consider any comments or views of residents received in writing, or orally at a public hearing, when preparing the HOME-ARP allocation plan. In its plan, a PJ must describe its public participation process, including any efforts made to broaden public participation. In its plan, the PJ must also include a summary of comments and recommendations received through the public participation process and any comments or recommendations not accepted and the reasons why.

Throughout the HOME-ARP allocation plan public participation process, the PJ must follow its applicable fair housing and civil rights requirements and procedures for effective communication, accessibility and reasonable accommodation for persons with disabilities and providing meaningful access to participation by limited English proficient (LEP) residents that are in its current citizen participation plan as required by 24 CFR 91.105 and 91.115.

C. HOME-ARP Allocation Plan Requirements

The HOME-ARP allocation plan must describe the distribution of HOME-ARP funds and the process for soliciting applications and/or selecting eligible projects. The plan must also identify any preferences being established for eligible activities or projects. However, PJs are not required to identify specific projects that will be funded in the HOME-ARP allocation plan.

1. **Needs Assessment and Gaps Analysis:** A PJ must evaluate the size and demographic composition of qualifying populations within its boundaries and assess the unmet needs of those populations. In addition, a PJ must identify any gaps within its current shelter and housing inventory as well as the service delivery system. A PJ should use current data, including point in time count, housing inventory count, or other data available through CoCs, and consultations with service providers to quantify the individuals and families in the qualifying populations and their need for additional housing, shelter, or services. A PJ should identify and consider the current resources available to assist qualifying populations, including congregate and non-congregate shelter units, supportive services, TBRA, and affordable and permanent supportive rental housing. A PJ must consider the housing and service needs of qualifying populations, including but not limited to:
    - Sheltered and unsheltered homeless populations;
    - Those currently housed populations at risk of homelessness;
    - Other families requiring services or housing assistance to prevent homelessness; and
    - Those at greatest risk of housing instability or in unstable housing situations.

    A PJ should include data in its HOME-ARP allocation plan that describes the qualifying populations.

    In addition, a PJ must include a narrative description that:
    - Identifies the characteristics of housing associated with instability and an increased risk of homelessness if the PJ will include such conditions under HUD's definition of "other populations" as established in Section IV.A.4.2.ii.G. of this Notice.
    - Identifies the PJ's priority needs for qualifying populations; and,
    - Explains how the PJ determined the level of need and gaps in its shelter and housing inventory and service delivery systems.

2. **HOME-ARP Activities:** The HOME-ARP allocation plan must describe how a PJ will distribute HOME-ARP funds in accordance with its priority needs. The plan must describe the PJ's method for soliciting applications for funding and/or selecting developers, service providers, subrecipients and/or contractors and whether the PJ will administer eligible activities directly. If the PJ will provide any portion of its HOME-ARP administrative funds to a subrecipient or contractor prior to HUD's acceptance of the PJ's HOME-ARP allocation plan because the subrecipient or contractor is responsible for the administration of the PJ's entire HOME-ARP grant, the plan must identify the subrecipient or contractor and describe its role and responsibilities in administering all of the PJ's HOME-ARP program.

    PJs must indicate in the HOME-ARP allocation plan the amount of HOME-ARP funding that is planned for each eligible HOME-ARP activity type, including administrative and

planning activities. In addition, a PJ must demonstrate that any planned funding for nonprofit organization operating assistance, as described in Section VI.F, nonprofit capacity building, and administrative costs is within HOME-ARP limits. PJs must also include a narrative description about how the characteristics of its shelter and housing inventory, service delivery system, and the needs identified in the PJ's gap analysis provided a rationale for its plan to fund eligible activities.

3. **HOME-ARP Production Housing Goals:** The HOME-ARP allocation plan must estimate the number of affordable rental housing units for qualifying populations that a PJ will produce or support with its HOME-ARP allocation. The plan must also include a narrative about the specific affordable rental housing production goal that the PJ hopes to achieve and describe how it will address the PJ's priority needs.

4. **Preferences:** The HOME-ARP allocation plan must identify whether the PJ intends to give preference to one or more qualifying populations or a subpopulation within one or more qualifying populations for any eligible activity or project. For example, PJs may include a preference for:
   - homeless individuals and families as defined in the ESG and CoC programs;
   - individuals with special needs or persons with disabilities among qualifying individuals and families;
   - a specific category of qualifying individuals and families (e.g., chronically homeless as defined in 24 CFR 91.5).

   PJs are not required to describe specific projects to which the preferences will apply in the HOME-ARP allocation plan. However, a PJ must explain how the use of a preference or method of prioritization will address the unmet need or gap in benefits and services received by individuals and families in the qualifying population or category of qualifying population, consistent with the PJ's needs assessment and gap analysis. The PJ must also describe how it will still address the unmet needs or gaps in benefits and services of the other qualifying populations that are not included in a preference through the use of HOME-ARP funds.

   Preferences cannot violate any applicable fair housing, civil rights, and nondiscrimination requirements, including but not limited to those requirements listed in 24 CFR 5.105(a). The PJ must comply with all applicable nondiscrimination and equal opportunity laws and requirements listed in 24 CFR 5.105(a) and any other applicable fair housing and civil rights laws and requirements when establishing preferences or methods of prioritization.

5. **HOME-ARP Refinancing Guidelines:** If a PJ intends to use HOME-ARP funds to refinance existing debt secured by multifamily rental housing that is being rehabilitated with HOME-ARP funds, it must state its refinancing guidelines in accordance with 24 CFR 92.206(b)(2). The guidelines must describe the conditions under with the PJ will refinance existing debt for a HOME-ARP rental project. At a minimum, the guidelines must:

   - Establish a minimum level of rehabilitation per unit or a required ratio between rehabilitation and refinancing to demonstrate that rehabilitation of HOME-ARP rental housing is the primary eligible activity.

- Require a review of management practices to demonstrate that disinvestment in the property has not occurred; that the long-term needs of the project can be met; and that the feasibility of serving qualified populations for the minimum compliance period can be demonstrated.
- State whether the new investment is being made to maintain current affordable units, create additional affordable units, or both.
- Specify whether the required compliance period is the minimum 15 years or longer.
- State that HOME-ARP funds cannot be used to refinance multifamily loans made or insured by any federal program, including CDBG.

6. **Substantial Amendments to the HOME-ARP Allocation Plan:** PJs must make a substantial amendment to the HOME-ARP allocation plan for changes in the method of distributing funds; to carry out an activity not previously described in the plan; or, to change the purpose, scope, location, or beneficiaries of an activity, including new preferences not previously described in the plan. In addition, the requirements for substantial amendments at 24 CFR 92.63 apply to the HOME-ARP allocation plan for insular areas. PJs are not required to make a substantial amendment to describe individual projects selected for funding if the eligible activity is included in the PJ's plan. PJs must make the proposed substantial amendment public and provide for a 15-day public comment period prior to submission. Upon completion of the public comment period, PJs must submit substantial amendments to HUD in accordance with the process for submitting the HOME-ARP allocation plan as described in Section V.D.

7. **Certifications and SF-424:** PJs must submit the required certifications in accordance with the requirements in this Notice, including the following:

   a. Affirmatively Further Fair Housing;
   b. Uniform Relocation Assistance and Real Property Acquisition Policies Act and Anti-displacement and Relocation Assistance Plan;
   c. Anti-Lobbying;
   d. Authority of Jurisdiction;
   e. Section 3; and,
   f. HOME-ARP specific certification that a PJ will only use HOME-ARP funds consistent with ARP and the HOME-ARP Notice for eligible activities and eligible costs.

   PJs must also submit the SF-424, SF-424B, and SF-424D with the HOME-ARP allocation plan.

D. Submission and Review Process

1. **HOME-ARP Submission and the eCon Planning Suite:** Upon completion of the HOME-ARP allocation plan, a PJ must submit the HOME-ARP allocation plan to HUD. To submit the HOME-ARP allocation plan, PJs must follow the process in IDIS to make an amendment to the Fiscal Year (FY) 2021 annual action plan. Once the FY 2021 annual action plan is reopened, a PJ must upload a Microsoft Word or PDF version of the plan as an attachment next to the "HOME-ARP allocation plan" option on the AD-26 screen (for

PJs whose FY. 2021 annual action plan is a Year 2-5 annual action plan) or the AD-25 screen (for PJs whose FY 2021 annual action plan is a Year 1 annual action plan that is part of the 2021 consolidated plan), unless instructed by HUD to follow a different submission procedure. PJs are not required to make any other edits to the FY 2021 annual action plan or applicable consolidated plan screens in the eCon Planning Suite. For more information on how to upload an attachment in the eCon Planning Suite, PJs can refer to the eCon Planning Suite Desk Guide.

2. **HUD Review of the HOME-ARP Allocation Plan:** The PJ must submit its HOME-ARP allocation plan to HUD for review in accordance with 24 CFR 91.500, as revised by this Notice. Unless instructed otherwise by HUD, the HOME-ARP allocation plan is received by HUD when the SF-424 is submitted electronically, which means that it is uploaded in the eCon Planning Suite as an attachment on AD-25 or AD-26 screen, as applicable, and the action plan status is changed to "Submitted for Review." HUD will review a PJ's HOME-ARP allocation plan to determine that it is:
   - Substantially complete, and
   - Consistent with the purposes of ARP.

   HUD may disapprove a PJ's HOME-ARP allocation plan in accordance with 24 CFR 91.500(b). HUD may also disapprove a HOME-ARP allocation plan or a portion of a plan if HUD determines that the plan is inconsistent with the purposes of ARP or substantially incomplete. A PJ's plan is inconsistent with ARP if it allocates HOME-ARP funds for uses other than a HOME-ARP eligible activity, as described in this Notice. A PJ's HOME-ARP allocation plan is substantially incomplete if:
   - The PJ does not complete the required public participation or consultation or fails to describe those efforts in the plan;
   - The PJ fails to include the required elements outlined in this Notice, including the amount of HOME-ARP funds for each eligible HOME-ARP activity type;
   - The PJ fails to identify and describe the responsibilities of the subrecipient or contractor administering all of its HOME-ARP award, if applicable; or,
   - HUD rejects the PJ's HOME-ARP certification as inaccurate.

   In accordance with section 105(c) of NAHA (42 U.S.C. 12705(c)) and 24 CFR 91.500(a), if the PJ's HOME-ARP allocation plan is not disapproved within 45 days, then the plan is deemed approved 45 days after HUD receives the plan, and HUD shall notify the PJ that the plan is accepted.

   If HUD determines that the plan is substantially incomplete or that the plan is inconsistent with ARP, HUD will notify the PJ in writing with the reasons for disapproval, in accordance with 24 CFR 91.500(c). If a PJ's plan is disapproved, the PJ may revise or resubmit the plan for HUD review within 45 days after the first notification of disapproval. HUD will respond to accept or disapprove the resubmitted plan within 30 days of receiving the revisions or resubmission.

   Once HUD notifies a PJ that the plan is accepted, the PJ must make the final HOME-ARP allocation plan available to the public in accordance with the same requirements in the PJ's

current citizen participation plan that are followed to make the PJ's adopted consolidated plan and substantial amendments available to the public, including the availability of materials in a form accessible to persons with disabilities, and translated materials in different languages to accommodate LEP persons, upon request.

3. **HUD Review of the HOME-ARP Allocation Plan for Insular Areas:** In addition to the standards for review described in Section V.D.2, HUD will review an insular area's HOME-ARP allocation plan in accordance with 24 CFR 92.62. If HUD cannot make a determination based on the information submitted that the HOME-ARP allocation plan complies with HOME-ARP allocation plan requirements, or if the eligible activities described in the plan are not within the insular area's management capability as demonstrated by past performance in housing and community development programs, HUD will notify the insular area within 30 days of receipt of the HOME-ARP allocation plan that supporting documentation is needed. The insular area will have a mutually agreed upon period to submit the necessary supporting information or to revise the eligible activities in its HOME-ARP allocation plan.

VI. ELIGIBLE ACTIVITIES

A. Administration and Planning

The PJ may expend, for payment of reasonable administrative and planning costs, up to 15 percent of its HOME-ARP allocation. Reasonable administrative and planning costs for the HOME-ARP program include:

1. Reasonable costs of overall HOME-ARP program management, coordination, monitoring, and evaluation. Such HOME-ARP costs include, but are not limited to, necessary expenditures for the following:

    a. Salaries, wages, and related costs of the PJ's staff. If a PJ charges costs to this category, the PJ may either include the entire salary and related costs allocable to the HOME-ARP program of each person whose *primary* responsibilities with regard to the HOME-ARP program involves program administration assignments, or the prorated share of the salary, wages, and related costs of each person whose job includes *any* program administrative assignments. A PJ may only use one of these two methods. Program administration includes:
        i. Developing systems and schedules for complying with HOME-ARP program requirements, including systems to prevent a duplication of benefits among beneficiaries of HOME-ARP activities;
        ii. Developing interagency agreements and agreements with entities receiving HOME-ARP funds;
        iii. Monitoring HOME-ARP activities for progress and compliance with HOME-ARP program requirements;
        iv. Preparing HOME-ARP reports and other documents related to the HOME-ARP program for submission to HUD;

v. Coordinating the resolution of audit and monitoring findings on HOME-ARP activities;
vi. Evaluating HOME-ARP program results against stated objectives in the HOME-ARP allocation plan, and
vii. Managing or supervising persons whose primary responsibilities with regard to the HOME-ARP program include such assignments as those described above.

b. Travel costs incurred for official business in carrying out the HOME-ARP program.

c. Administrative services performed under third party contracts or agreements, including such services as general legal services, accounting services, and audit services.

d. Other costs for goods and services required for administering the HOME-ARP program, such as: rental or purchase of equipment, insurance, information systems necessary to track and implement beneficiaries of HOME-ARP activities in accordance with the requirements of this Notice, utilities, office supplies, and rental and maintenance (but not purchase) of office space.

e. Costs of administering HOME-ARP TBRA and HOME-ARP supportive services programs.

2. Staff and overhead costs of the PJ directly related to carrying out a HOME-ARP project, in accordance with 24 CFR 92.207(b).

3. The provision of information and other resources to residents and citizen organizations participating in the planning, implementation, or assessment of projects being assisted with HOME-ARP funds.

4. Activities to affirmatively further fair housing (AFFH) in accordance with 24 CFR 5.151 and the PJ's certification as required under this Notice and 24 CFR 5.152. The AFFH definition in HUD's Interim Final Rule entitled, "Restoring Affirmatively Furthering Fair Housing Definitions and Certifications" (86 FR 30779, June 10, 2021), as amended, at 24 CFR 5.151, and the AFFH certification requirement, at 24 CFR 5.152, available at https://www.federalregister.gov/documents/2021/06/10/2021-12114/restoring-affirmatively-furthering-fair-housing-definitions-and-certifications.

5. Indirect costs may be charged to the HOME-ARP program under a cost allocation plan prepared in accordance with 2 CFR part 200, subpart E, as amended.

6. Preparation of the HOME-ARP allocation plan as required in this Notice. Preparation includes the costs of public hearing, consultations, and publications.

7. Costs of complying with the applicable Federal requirements in 24 CFR part 92, subpart H. Project-specific environmental review costs may be charged as administrative or project costs in accordance with 24 CFR 92.206(d)(8) and is at the discretion of the PJ.

Funds available under the HOME-ARP appropriation for administration and planning may not be used to pay costs attributable to the regular HOME Program.

PJs may provide all or a portion of its HOME-ARP administrative funds to subrecipients and contractors that are administering activities on behalf of the PJ (e.g., CoC entity, other non-Federal entity), in accordance with the requirements in this Notice. However, from the obligation date of the HOME-ARP funds in the HOME-ARP Grant Agreement and prior to HUD's acceptance of the PJ's HOME-ARP allocation plan, a subrecipient or contractor to the PJ may only incur and expend HOME-ARP funds for eligible administrative and planning costs if the subrecipient or contractor is responsible for the use of the PJ's entire HOME-ARP award and has executed a HOME-ARP written agreement that complies with 24 CFR 92.504 and this Notice. The PJ must also identify the subrecipient or contractor administering the PJ's entire HOME-ARP award and describe the subrecipient or contractor's responsibilities in the PJ's HOME-ARP allocation plan.

All costs must comply with the Cost Principles contained in subpart E of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR part 200, as amended (Uniform Administrative Requirements).

Once HUD obligates the HOME-ARP funds, as described in Section VIII.C.2 of this Notice, the PJ may incur and expend up to 5 percent of its HOME-ARP allocation on eligible administrative and planning costs, as described in this section and 24 CFR 92.207. Before HUD's acceptance of the PJ's HOME-ARP allocation plan, the PJ is only permitted to incur and expend HOME-ARP funds on eligible administrative and planning costs.

If the PJ does not submit a HOME-ARP allocation plan or if the PJ's plan is not accepted within a reasonable period of time, as determined by HUD, all HOME-ARP administrative and planning costs incurred by the PJ will be ineligible costs and any HOME-ARP funds expended by the PJ must be repaid to the PJ's HOME Investment Trust Fund Treasury account, in accordance with guidance issued by HUD. Moreover, if the PJ's HOME-ARP allocation plan does not identify or include a description of the responsibilities of the subrecipient or contractor that is responsible for the PJ's entire HOME-ARP award, if applicable, the administrative and planning costs incurred or expended by the subrecipient or contractor will also be ineligible and any HOME-ARP funds expended by the PJ's subrecipient or contractor must be repaid to the PJ's HOME Investment Trust Fund Treasury account, in accordance with guidance from HUD.

B. HOME-ARP Rental Housing

HOME-ARP funds may be used to acquire, rehabilitate, or construct affordable rental housing primarily for occupancy by households of individuals and families that meet the definition of one or more of the qualifying populations described in Section IV.A of this Notice ("**qualifying households**"). Unlike the regular HOME Program, which targets HOME-assisted rental units based on tenant income, 70 percent of all HOME-ARP units will admit households based only upon their status as qualifying households. This complicates the underwriting and operation of projects that include HOME-ARP units. As a result, the requirements for HOME-ARP rental housing provide significant flexibilities to enable HOME-ARP rental projects to remain

financially viable and affordable for the qualifying populations throughout the minimum compliance period.

Eligible HOME-ARP rental housing includes "housing" as defined at 24 CFR 92.2, including but not limited to manufactured housing, single room occupancy (SRO) units, and permanent supportive housing. Emergency shelters, hotels, and motels (including those currently operating as non-congregate shelter), facilities such as nursing homes, residential treatment facilities, correctional facilities, halfway houses, and housing for students or dormitories do not constitute housing in the HOME-ARP program. However, HOME-ARP funds may be used to acquire and rehabilitate such structures into HOME-ARP rental housing.

Developing financially feasible rental housing for qualifying households is challenging in the absence of project-based rental assistance. Most HOME-assisted rental projects rely on tenant rents to cover all or a portion of the debt service and project operating costs. Most HOME-ARP qualifying households will be unable to pay a rent that covers allocated debt service or operating costs, requiring PJs to use other techniques to determine that HOME-ARP units are affordable and that projects containing HOME-ARP units are sustainable throughout the minimum compliance period. PJs are encouraged to work with local PHAs and other state or local agencies to obtain project-based rental assistance for units funded with HOME-ARP. In the absence of such project-based rental assistance, the HOME-ARP units for qualifying households may require substantial capital investment through HOME-ARP and other Federal, state, local, or private sources to eliminate debt service on the units. ARP suspended the maximum per-unit subsidy limit for HOME-ARP units, enabling HOME-ARP funds to pay the entire cost to acquire, rehabilitate and/or construct the HOME-ARP rental units, eliminating the need for the HOME-ARP units to support debt. In mixed-income developments, revenue from market rate or higher income-restricted units may also provide an internal subsidy to cover a portion of the operating costs of HOME-ARP units.

To address these challenges and maintain affordability, HUD is using its HOME-ARP statutory authority to:

- Establish alternative rent requirements to 24 CFR 92.252(b) and extend an owner's ability to charge the maximum rent permissible under a rental assistance program (to units occupied by recipients of tenant-based rental assistance (e.g., Housing Choice Vouchers, HOME TBRA, HOME-ARP TBRA).
- Establish a minimum compliance period of 15 years for all HOME-ARP rental units irrespective of the amount of subsidy per unit or whether the units are acquired, rehabilitated, and/or newly constructed.
- Permit the use of HOME-ARP funds to provide ongoing operating cost assistance or capitalize a project operating cost assistance reserve to address operating deficits of the HOME-ARP units restricted for qualifying households during the compliance period.
- Allow not more than 30 percent of the total number of rental units assisted with HOME-ARP funds by the PJ to be restricted to households that are low-income as defined in 24 CFR 92.2 ("low-income households"). These units may only be located in projects containing HOME-ARP units restricted for qualifying households. The HOME-ARP rental units occupied by low-income households must operate under the regulations applicable to HOME rental units at 24 CFR 92.252 (i.e., be occupied by low-income

households and bearing a rent not greater than the lesser of a. the Fair Market Rent for existing housing for comparable units in the area, as established by HUD, or b. a rent equal to 30 percent of the adjusted income of a family with annual income at 65 percent of median income for the area, as determined by HUD, with adjustments for the number of bedrooms in the unit).

1. **Targeting and Occupancy Requirements**: ARP requires HOME-ARP activities to primarily benefit households in the qualifying populations. To improve the feasibility and maintain the long-term viability of projects with HOME-ARP rental units for qualifying households, a PJ may invest HOME-ARP funds in units that are not restricted for occupancy solely for qualifying populations as described in this section. Specifically, participating jurisdictions must comply with the following requirements:

   a. *Targeting:* HOME-ARP funds can only be invested in units restricted for qualifying households or low-income households as follows:

      i. Not less than 70 percent of the total number of rental units assisted with HOME-ARP funds by the PJ must be restricted for occupancy by households that are qualifying households at the time of the household's initial occupancy; and,

      ii. Not more than 30 percent of the total number of rental units assisted with HOME-ARP funds by the PJ may be restricted to low-income households. These rental units do not have to be restricted for occupancy by qualifying households, however rental units restricted to low-income households are only permitted in projects that include HOME-ARP units for qualifying households.

   b. *Occupancy Requirements:*

      i. **Qualifying Households**. Units restricted for occupancy by qualifying households must be occupied by households that meet the definition of a qualifying population at the time of admission to the HOME-ARP unit. A qualifying household after admission retains its eligibility to occupy a HOME-ARP rental unit restricted for qualifying populations, irrespective of the qualifying household's changes in income or whether the household continues to meet the definition of a qualifying population. As such, a unit restricted for a qualifying household remains in compliance with the HOME-ARP unit restriction as long as the unit is occupied by a qualifying household that met the definition of a qualifying population at the time of admission.

      ii. **Low-Income Households.** At initial occupancy, units restricted for low-income households must be occupied by households that meet the definition of low-income in 24 CFR 92.2. If a tenant's income increases above the applicable low-income limit during the compliance period, the unit will be considered temporarily out of compliance. Noncompliance requires the PJ to take action in accordance with the rent and unit mix requirements in Sections VI.B.15 and VI.B.17 of this Notice, respectively.

2. **Eligible Activities**: A PJ may use HOME-ARP funds for acquisition, construction, and rehabilitation, including reconstruction as defined in 24 CFR 92.2, of affordable rental housing for qualifying and low-income households. Acquisition of vacant land or demolition must be undertaken only with respect to a particular housing project intended to provide HOME-ARP rental housing within the timeframes provided in Section VI.B. of this Notice. A HOME-ARP rental project must meet the definition of *project* in 24 CFR 92.2.

   HOME-ARP funds may be used to assist one or more units in a project. Only the eligible development costs of the HOME-ARP units may be charged to the HOME-ARP program. Cost allocation in accordance with 24 CFR 92.205(d)(1) is required if the assisted and non-assisted units are not comparable. After project completion, the number of HOME-ARP units in a project cannot be reduced. During the HOME-ARP minimum compliance period and prior to the end of the HOME-ARP budget period, a PJ may invest additional HOME-ARP funds to provide operating cost assistance but is prohibited from investing additional HOME-ARP funds for capital costs except within the 12 months after project completion. A qualifying household admitted to a HOME-ARP rental unit may still receive HOME-ARP supportive services or TBRA in accordance with the requirements in this Notice.

3. **Forms of Assistance**: The PJ may invest HOME-ARP funds in accordance with the eligible forms of assistance described in 24 CFR 92.205(b). Each PJ has the right to establish the terms of assistance, subject to the HOME-ARP requirements described in this Notice.

4. **Minimum Amount of Assistance**: The minimum amount of HOME-ARP funds that must be invested in a rental housing project is $1,000 times the number of HOME-ARP-assisted units in the project as established in 24 CFR 92.205(c).

5. **Eligible Costs**: HOME-ARP funds may be used to pay for up to 100% of the following eligible costs associated with the acquisition, development, and operation of HOME-ARP rental units:

   a. *Development hard costs* – defined in 24 CFR 92.206(a).

   b. *Refinancing* – the cost to refinance existing debt secured by a rental project that is being rehabilitated with HOME-ARP funds in accordance with 24 CFR 92.206(b)(2) and the PJ's HOME-ARP refinancing guidelines, as stated in their HOME-ARP Allocation Plan.

   c. *Acquisition* – the costs of acquiring improved or unimproved real property.

   d. *Related soft costs* – defined in 24 CFR 92.206(d).

   e. *Relocation costs* – as defined in 24 CFR 92.206(f), 24 CFR 92.353, and described in this Notice.

   f. *Costs relating to payment of loans* – If the HOME-ARP funds are not used to directly pay a cost specified in this HOME-ARP rental housing section, but are used to pay off a

construction loan, bridge financing loan, or guaranteed loan, the payment of principal and interest for such loan is an eligible cost only if: (1) the loan was used for eligible costs specified in this HOME-ARP rental housing section, and (2) the HOME-ARP funds are part of the original financing for the project and the project meets the requirements of this Notice.

g. *Operating Cost Assistance* – A PJ may pay ongoing operating cost assistance or capitalize an operating cost assistance reserve for HOME-ARP-assisted units restricted for occupancy by qualifying populations in a project where the PJ determines in its underwriting that the reserve is necessary to maintain the HOME-ARP units' long-term operational feasibility. However, HOME-ARP funds cannot be used for both a capitalized operating cost assistance reserve and ongoing payments for operating cost assistance during the minimum compliance period. The allowable amount of the reserve shall not exceed the amount determined by the PJ to be necessary to provide operating cost assistance for HOME-ARP units restricted for occupancy by qualifying populations for the 15-year HOME-ARP minimum compliance period.

The operating cost assistance reserve for HOME-ARP units for qualifying households must be held by the project owner in a separate interest-bearing account and sized, based on an analysis of projected deficits remaining after the expected payments toward rent by qualifying households are applied to the units' share of operating costs. Funds in a capitalized operating cost assistance reserve can only be drawn to address operating deficits associated with HOME-ARP units restricted for occupancy by the qualifying populations. A PJ must use the definition of operating costs in this Notice in its calculation of operating deficits to determine the amount of HOME-ARP funds needed for an operating cost assistance reserve or when providing operating cost assistance. Unexpended operating cost assistance reserve amounts remaining at the end of the minimum compliance period must be returned in accordance with Section VI.B.24 of this Notice.

A PJ may provide operating cost assistance to a HOME-ARP rental project to cover an operating deficit associated with HOME-ARP units restricted for occupancy by qualifying households except for when an operating cost assistance reserve is already established for the project. Operating cost assistance committed to a project cannot be provided beyond the HOME-ARP budget period, as described in Section VIII.C.4 of this Notice.

Operating costs include costs for administrative expenses, property management fees, insurance, utilities, property taxes, and maintenance of a unit that is designated as a HOME-ARP-assisted unit and required to be occupied by a qualifying household. . Operating costs must be reasonable and appropriate for the area, size, population(s) served, and type of project.

Project administrative expenses include payroll costs, which are gross salaries and wages paid to employees assigned to the property, including payroll taxes, employee compensation, and employee benefits; employee education, training, and travel; advertising; and general administrative costs which are costs for goods and services

required for administration of the housing, including rental or purchase of equipment, supplies, legal charges, bank charges, utilities, telephone/internet services, insurance, and other administrative costs that are reasonable and customary for the general administration of a rental unit occupied by qualifying populations. HOME-ARP permits the pro-rated staffing costs of a Resident Services Coordinator to be included in the operating costs allocated to a HOME-ARP unit for low-income or qualifying households if such costs are not already paid by another source. Typically, the role of a Resident Services Coordinator is to arrange community activities for residents and link residents to outside service agencies as needed.

A property management fee includes the total fee paid to a management agent by the owner for the day-to-day management of a HOME-ARP rental unit restricted for occupancy by qualifying populations. A management agent must cover its costs of supervising and overseeing operations of a HOME-ARP unit out of the fee they receive.

A reserve for replacement must be based on the useful life of each major system and expected replacement cost in a HOME-ARP project. Scheduled payments to a reserve for replacement of major systems included in the operating costs allocated to a HOME-ARP unit restricted for a qualifying household may be made from the operating cost assistance reserve. A reserve for replacement allocated to the HOME-ARP units may also be capitalized in the initial year of the minimum compliance period of the HOME-ARP units. HOME-ARP funds cannot be used to both capitalize a reserve for replacement and provide payments to the reserve for replacement from a capitalized operating reserve during the minimum compliance period.

Supportive services costs are not eligible operating costs of HOME-ARP units, however, qualifying households occupying HOME-ARP rental units may receive supportive services through the HOME-ARP supportive services eligible activity.

6. **Prohibited Activities and Fees**: HOME-ARP may not be used for any of the prohibited activities, costs or fees in 24 CFR 92.214, as revised by the Appendix to this Notice.

7. **HOME-ARP Funds and Public Housing**: HOME-ARP funds must be used in accordance with the requirements in 24 CFR 92.213(a)-(c).

8. **Commitment**: The affordable housing requirements in the definition of *Commitment* in 24 CFR 92.2, including the provisions in (2) *Commit to a specific local project*, apply to rental housing units assisted with HOME-ARP funds. This includes but is not limited to the requirements that the PJ and project owner have an executed legally binding written agreement under which HOME-ARP assistance will be provided to the owner for an identifiable project for which all necessary financing has been secured, a budget and schedule have been established, and underwriting has been completed and under which construction is scheduled to start within 12 months of the agreement date.

9. **Maximum Per-Unit Subsidy and Limitations on Costs**: The maximum per-unit subsidy established in NAHA does not apply to HOME-ARP units. PJs may pay up to 100 percent of the eligible and reasonable HOME-ARP costs allocated to a HOME-ARP unit, including

operating cost assistance associated with units restricted for occupancy by qualifying households. All costs paid by HOME-ARP funds must comply with the requirements of this Notice and the Cost Principles at 2 CFR part 200, subpart E of the Uniform Administrative Requirements, as amended.

10. **Underwriting, Subsidy Layering**: Before the PJ can commit HOME-ARP funds to a project, it must evaluate the project to determine the amount of HOME-ARP capital subsidy and operating cost assistance necessary to provide quality affordable housing that meets the requirements of this Notice and is financially viable throughout the minimum 15-year HOME-ARP compliance period. The PJ must evaluate the project in accordance with underwriting and subsidy layering guidelines it has developed for HOME-ARP projects.

    The PJ's project underwriting must include an in-depth review of underlying project assumptions, development sources and uses, and projected operating income and expenses, and the project's long-term financial viability to determine the project's need for HOME-ARP assistance while preventing over-subsidization of the project. HUD anticipates that project developers will rely on Low-Income Housing Tax Credit (LIHTC) financing, HOME funds, Housing Trust Fund grants, project-based vouchers, project-based rental assistance, operating cost reserves, state or local sources, or a combination of these and other resources to create a feasible HOME-ARP project and maintain compliance with HOME-ARP requirements. HOME-ARP units for qualifying households that do not receive a commitment of project-based vouchers or project-based rental assistance may require both deep capital subsidy and operating cost assistance to remain financially sustainable for the minimum 15-year HOME-ARP compliance period. However, the PJ, through its underwriting, must also determine that the HOME-ARP capital and operating subsidies do not result in over-subsidization of the project.

    To secure HOME-ARP rental units for qualifying households, HOME-ARP funds may be invested in different types of projects, including permanent supportive housing, mixed-finance affordable housing, and market-rate projects. While the viability of the HOME-ARP units is the PJ's primary concern, it must not limit its underwriting analysis to the HOME-ARP units. The long-term viability of HOME-ARP units is contingent upon the financial health of the entire project. PJs must therefore take a holistic approach to underwriting that examines the overall feasibility of the entire project to determine that the property will be financially sustainable for the duration of the 15-year HOME-ARP compliance period.

    For projects that will receive operating cost assistance through a capitalized operating cost assistance reserve or on-going operating cost assistance for a specific period, the on-going operating cost assistance or operating cost assistance reserve must be included in the underwriting. Unless placed into an operating cost assistance reserve, operating cost assistance committed to a project for a specific period cannot be provided beyond the budget period, as described in Section VIII.C.4. of this Notice. HOME-ARP units that have commitments for a form of project-based rental assistance must be underwritten with the projected rental assistance and not with operating cost assistance. An operating cost assistance reserve must be sized based on an analysis of projected operating deficits

remaining after the expected payments toward rent by qualifying households are applied to the HOME-ARP unit's share of operating costs. While a PJ may offer on-going project operating cost assistance instead of providing an operating cost assistance reserve, it may find this approach makes it more difficult to develop HOME-ARP units.

a. *Underwriting and Subsidy Layering Guidelines*: PJs must develop standardized underwriting guidelines for HOME-ARP rental projects. These guidelines must provide for underwriting that accommodates and is appropriate for different types of projects. For example, a standard market analysis does not provide the necessary data for a project where 100% of the units are restricted as permanent supportive housing for qualifying populations. In contrast, if a mixed-income property relies on rental income from market-rate units to subsidize the operating costs of permanent supportive housing units for which little or no tenant-paid rental income is projected, then a market study confirming that the proposed market rents are achievable is needed to demonstrate the long-term financial viability of the project.

   PJs with existing HOME rental underwriting standards may use these standards as the foundation for their HOME-ARP underwriting guidelines, but all PJs are required to develop and implement standardized underwriting guidelines for HOME-ARP that require the following:

   i. An examination of the sources and uses of funds for the project and a determination that costs are necessary and reasonable. In examining a project's proposed sources and uses, a PJ must determine the amount of HOME-ARP development subsidy required to fill the gap between other committed funding sources and the cost to develop the project.

      A developer fee is a permitted development cost under the HOME-ARP program, but the PJ must review the fee and determine that it is reasonable. A PJ may set limits on the developer fee and other fees (e.g., asset management fee, property management fee) to be paid by HOME-ARP funds that differ from other funding sources (e.g., LIHTC underwriting standards).

   ii. An assessment of the current market demand for the proposed project.
      (1) For HOME-ARP units for qualifying households, a market assessment is not required. Rather, the PJ can demonstrate that there is unmet need among qualifying populations for the type of housing proposed through their gap analysis, CoC data, public housing and affordable housing waiting lists, point-in-time surveys, housing inventory count, or other relevant data on the need for permanent housing for the qualifying populations.
      (2) For projects containing units restricted for occupancy by low-income households or market-rate households, the PJ must conduct a market assessment in accordance with 24 CFR 92.250(b)(2). A third-party market assessment completed by the developer or another funder meets this requirement, but the PJ must review the assessment and provide a written, dated acknowledgement that it accepts the assessment's findings and conclusions. The market assessment and the PJ's written, dated

acknowledgement must be retained for recordkeeping purposes.

iii. Review of and determination that the developer's experience and financial capacity are satisfactory based on the size and complexity of the project. When assessing the developer, the PJ must review, at minimum, prior experience with similar projects and the current capacity to develop the proposed project. When determining whether the developer has the financial capacity to undertake the project, the PJ should examine financial statements and audits to determine the developer's net worth, portfolio risk, pre-development funding, and liquidity.

iv. Firm written financial commitments for the project.

v. A careful review of the project's operating budget, including the basis for assumptions, projections of a project's net operating income, and reasonably expected changes in revenue and expenses during the minimum compliance period, to determine if any HOME-ARP-funded operating cost assistance is necessary and if applicable, an operating cost assistance reserve is sized appropriately. Operating income of the project must be sufficient to cover operating expenses throughout the minimum compliance period. For HOME-ARP units for qualifying households, the proforma or budget projections should include any anticipated ongoing operating cost assistance or draws from an operating cost assistance reserve, if applicable, that will offset operating deficits associated with those units to demonstrate sufficient operating support.
   (1) If project-based vouchers or project-based rental assistance is or will be awarded, this analysis must include that rental assistance revenue because operating cost assistance cannot be used for units for qualifying households with project-based vouchers or project-based rental assistance.
   (2) A PJ's underwriting standards may permit projects to generate reasonable net operating income throughout the minimum compliance period. However, HOME-ARP operating cost assistance may only be used to offset operating deficits, in accordance with the requirements of this Notice. Net operating income resulting from HOME-ARP operating cost assistance is not permitted and must be prohibited in the written agreement between the participating jurisdiction and the owner.

vi. An assessment of the project's overall viability through the minimum compliance period based on the households (i.e., qualifying households, low-income households, market-rate households) it will serve.

11. Property Standards: HOME-ARP rental units must comply with all property standards applicable to rental projects required in 24 CFR 92.251 paragraphs (a) new construction, (b) rehabilitation projects, (c)(1) and (2) acquisition of standard housing, (e) manufactured housing, and (f) on-going property condition standards.

12. Determining Household Income: The PJ must require all HOME-ARP units to be restricted for eligible households (i.e., either qualifying or low-income households)

throughout the minimum compliance period. Qualifying households are eligible for admission to HOME-ARP rental units solely by meeting the definition of one of the qualifying populations (i.e., HOME-ARP does not impose income restrictions on units restricted for qualifying populations). If there is no income requirement in the qualifying population's definition, a PJ is not required to perform an initial determination of household income except as necessary to determine an affordable rental contribution by the qualifying household or to establish eligibility for another funding source in the unit that imposes income restrictions (e.g., LIHTC). Each subsequent year during the compliance period, starting 1 year after initial occupancy, the PJ must use the definition of annual income as defined in 24 CFR 5.609 to examine the income of qualifying households to determine the household's contribution to rent. For low-income households, the PJ must use the definition of annual income as defined in 24 CFR 5.609 to examine the household's income at initial occupancy and each subsequent year during the compliance period to determine the household's ongoing income eligibility and applicable rental contribution.

a. *Qualifying populations*: For purposes of establishing the qualifying household's rental contribution after initial occupancy, a PJ must examine a HOME-ARP qualifying household's income using 24 CFR 92.203(a)(1)(i) or (iii), starting 1 year after initial occupancy. Each year during the minimum compliance period, the owner must examine the household's annual income in accordance with any one of the options in 24 CFR 92.203(a)(1) specified by the PJ. A project owner who re-examines household income through a statement and certification in accordance with 24 CFR 92.203(a)(1)(ii), must examine the income of each household, in accordance with 24 CFR 92.203(a)(1)(i), every sixth year of the compliance period. Otherwise, an owner who accepts the household's statement and certification in accordance with 24 CFR 92.203(a)(1)(ii) is not required to examine the household's income unless there is evidence that the household's written statement failed to completely and accurately state information about the household's size or income.

b. *Low-income Households*: In accordance with 24 CFR 92.252(h), the income of each low-income household must be determined initially in accordance with 24 CFR 92.203(a)(1)(i), and each year following the initial determination during the minimum compliance period in accordance with any one of the options in 24 CFR 92.203(a)(1) specified by the PJ. An owner who re-examines household income through a statement and certification in accordance with 24 CFR 92.203(a)(1)(ii), must examine the income of each household, in accordance with 24 CFR 92.203(a)(1)(i), every sixth year of the minimum compliance period. Otherwise, an owner who accepts the household's statement and certification in accordance with 24 CFR 92.203(a)(1)(ii) is not required to examine the household's income unless there is evidence that the household's written statement failed to completely and accurately state information about the household's size or income.

c. *Households Assisted by Other Programs*: Notwithstanding paragraphs (a) and (b), if a family is applying for or living in a HOME-ARP-assisted rental unit, and the unit is assisted by a Federal or State project based rental subsidy then a PJ must accept a public housing agency, section 8 project owner, or CoC recipient or subrecipient's

determination of the family's annual income and adjusted income under that program's rules and does not need to obtain source documentation in accordance with 24 CFR 92.203(a)(1) or calculate the annual income of the family. If a family is applying for or living in a HOME-ARP rental unit, and the family is assisted by a Federal tenant-based rental assistance program (e.g. housing choice vouchers) then a PJ may choose to accept the rental assistance provider's determination of the family's annual and adjusted income under that program's rules without need for review under 24 CFR 92.203(a)(1).

13. **Rent limitations**: This Notice establishes rent limits for HOME-ARP units restricted for qualifying populations and for units that may be restricted for low-income households.

    a. *Units Restricted for Occupancy by Qualifying Households*: In no case can the HOME-ARP rents exceed 30% of the adjusted income of a household whose annual income is equal to or less than 50% of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. HUD will publish the HOME-ARP rent limits on an annual basis.

    Notwithstanding the foregoing, a unit that receives a Federal or state project-based rental subsidy and is occupied by a qualifying household that pays as a contribution to rent no more than 30 percent of the household's adjusted income, may charge the rent allowable under the Federal or state project-based rental subsidy program (i.e., the tenant rental contribution plus the rental subsidy allowable under that program). If a household receives tenant-based rental assistance, the rent is the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rental subsidy allowable under that rental assistance program).

    The rent limits for HOME-ARP units for qualifying households include the rent plus the utility allowance established pursuant to Section VI.B.13.d of this Notice.

    b. *Rent limitations – low-income households*: HOME-ARP rental units occupied by low-income households must comply with the rent limitations in 24 CFR 92.252(a) (i.e., the lesser of the Fair Market Rent for existing housing for comparable units in the area, as established by HUD, or a rent equal to 30 percent of the income of a family at 65 percent of median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit). Notwithstanding the foregoing, when a household receives a form of Federal tenant-based rental assistance (e.g., housing choice vouchers), the rent is the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rent subsidy allowable under the rental assistance program). The rent limits for low-income households apply to the rent plus the utility allowance established pursuant to Section VI.B.13.d of this Notice.

    c. *Rent limitations – Single Room Occupancy (SRO) Units*: A HOME-ARP rental project may consist of SRO units. For the purposes of HOME-ARP rental, a SRO unit is defined as a unit that is the primary residence of the occupant(s) and must at least contain sanitary facilities but may also contain food preparation facilities. A project's

designation as a SRO cannot be inconsistent with the building's zoning and building code classification.

If the SRO units have both sanitary *and* food preparation facilities, the maximum HOME-ARP rent is based on the zero-bedroom fair market rent. If the SRO unit has only sanitary facilities, the maximum HOME-ARP rent is based on 75 percent of the zero-bedroom fair market rent. The rent limits for SRO units must also include the utility allowance established pursuant to Section VI.B.13.d of this Notice.

d. *Initial Rent Schedule and Utility Allowance*: The PJ must establish maximum allowances for utilities and services and update the allowances annually. The PJ may adopt the utility allowance schedule of the PHA.

The PJ must review and approve the HOME-ARP rents proposed by the owner, subject to the HOME-ARP rent limitations. For HOME-ARP units where the tenant is paying utilities and services (e.g., trash collection), the PJ must determine that the rent for the unit does not exceed the maximum rent minus the monthly allowance for utilities and services.

14. **Tenant Contribution to Rent – Qualifying Households**: The PJ must determine that the qualifying household's contribution to rent is affordable to the qualifying household based on a determination of the household's income. If the household is receiving project-based or tenant-based rental assistance, the household cannot be required to contribute more towards rent than the amount permitted by the requirements of the applicable rental assistance program (See Section VI.B.13.a of this Notice). If a qualifying household is not receiving project-based or tenant-based rental assistance and cannot contribute any income toward rent, or the contribution is insufficient to cover the unit rent, the project owner may draw from the project's operating cost assistance reserve if projected rental revenue minus the operating costs of the unit results in a deficit. If an operating cost assistance reserve was not capitalized at project completion:
    - The PJ may provide ongoing HOME-ARP operating cost assistance to cover the operating deficits associated with units occupied by qualifying households, subject to the requirements in this Notice.
    - The qualifying household may receive HOME-ARP TBRA to remain housed in the HOME-ARP rental unit or the PJ may offer, in conjunction with a qualifying household's admittance into a HOME-ARP rental unit, a simultaneous award of supportive services to the qualifying household in accordance with Section VI.D of this Notice. Any provision of supportive services must comply with all requirements of Section VI.D. of the Notice and the PJ's policies and procedures.
    - Operating cost assistance, HOME-ARP TBRA, and supportive services funds committed to a project cannot be provided beyond the budget period for the HOME-ARP funds, as described in Section VIII.C.4 of this Notice.

15. **Changes in Income and Over-income Households**:
A household that met the definition of one of the HOME-ARP qualifying populations at initial occupancy and whose annual income at the time of income re-certification is above

50 percent of median income for the area but at or below 80 percent of the median income for the area must pay the rent specified in 24 CFR 92.252(a).

HOME-ARP-assisted units restricted for low-income households continue to qualify as HOME-ARP rental housing despite a temporary noncompliance caused by increases in the incomes of existing households if actions satisfactory to HUD are taken so that all vacancies are filled in accordance with HOME-ARP requirements until the noncompliance is corrected.

A qualifying or low-income household that is not low-income at the time of income re-certification (i.e., whose income is above 80 percent of the median income for the area) must pay rent that complies with the over income regulatory requirements at 24 CFR 92.252(i)(2), which includes requirements applicable to HOME units that also have LIHTC restrictions.

16. **Unit Designation**: The PJ must determine the number of HOME-ARP units in the project restricted for qualifying households and low-income households, respectively, and whether the units are fixed or floating units at the time of project commitment. The total number of HOME-ARP rental units restricted for occupancy by qualifying households and the total number of HOME-ARP rental units restricted for low-income households must be identified as separate totals in the written agreement. In a project containing HOME-ARP and other units, the PJ must designate fixed or floating HOME-ARP units in accordance with 24 CFR 92.252(j). The PJ must maintain this unit mix throughout the compliance period.

17. **Maintaining Unit Mix**: At the time of admission to a HOME-ARP rental unit, a household must meet the definition for at least one qualifying population or be determined to be a low-income household, depending on the applicable HOME-ARP restriction on the rental unit to which it is being admitted and in accordance with the written agreement.

    For HOME-ARP rental units restricted for occupancy by qualifying populations, a household that meets the definition of a qualifying population at the time of admission retains its eligibility to occupy a HOME-ARP rental unit restricted for occupancy by qualifying populations, irrespective of changes in income or whether the household continues to meet the definition of a qualifying population after initial occupancy. As an example, a household that qualifies as "Homeless" at admission does not meet the Homeless definition once the household occupies a HOME-ARP unit but remains a qualifying household and is eligible to remain in a HOME-ARP rental unit restricted for qualifying populations. Income determinations for qualifying households are therefore only for purposes of establishing a qualifying household's rental contribution as described in Section VI.B.15 of this Notice and not for maintaining continued eligibility in the HOME-ARP program. In a project with floating units, PJs are encouraged but not required to shift the HOME-ARP qualifying population designation to another unit to serve another qualifying household if the household's income subsequently is certified to be at or above 80 percent AMI and the household no longer meets the definition of any qualifying population.

For HOME-ARP rental units restricted for occupancy by low-income households, units will be considered temporarily out of compliance if the household's income increases above 80 percent of area median income. The requirements for correcting any noncompliance using vacancies or redesignation of units depends on whether the HOME-ARP rental units are fixed or floating and whether other funding sources (e.g., LIHTC) impose income or other restrictions on the units. Please note, in accordance with the requirements in 24 CFR 92.253 and in Section VI.B.19.c, an increase in a tenant's income does not constitute good cause to evict or refuse to renew a tenant's lease, regardless of program requirements associated with other funding sources such as LIHTC. In addition, compliance with unit restrictions for low-income households requires adjustment of rents as described in Section VI.B.15 of this Notice.

18. **Minimum Compliance Period**: HOME-ARP-assisted units must comply with the requirements of this Notice for a minimum period of 15 years, irrespective of the amount of HOME-ARP funds invested in the project or the activity being undertaken. A PJ may impose a longer compliance period but should plan for the project's financial feasibility for the longer period without HOME-ARP funds. The PJ may not use HOME-ARP funds to provide operating cost assistance, including a capitalized operating cost assistance reserve, to cover deficits during a PJ's extended compliance period.

    If a project-based rental assistance Housing Assistance Payments (HAP) contract is awarded to a HOME-ARP rental project, a PJ must impose a minimum compliance period that is the greater of 15 years or the term of the HAP contract. PJs are also encouraged to extend restrictions for occupancy of the HOME-ARP units in accordance with the requirements in this section to match the term of eligible HAP contract renewals.

    The provisions at 24 CFR 92.252(e)(1)-(4) apply, including the requirement that the PJ must impose the HOME-ARP rental requirements through a deed restriction, covenant running with the land, legally binding agreement restricting the use of the property and recorded on the property in accordance with State recordation laws, or other mechanisms approved by HUD. The chart providing minimum affordability periods based on rental housing activity that is contained in 24 CFR 92.252(e) does not apply. The enforceable restriction must provide that units assisted with HOME-ARP comply with the requirements of this Notice throughout the minimum 15-year compliance period, including:

    a. Units restricted for qualifying populations must be occupied by households that met the definition of a qualifying population at the time of initial occupancy. The household's contribution toward rent during this period must be affordable in accordance with Section VI.B.14 of this Notice. The rents for these units must comply with the rent limitations established in this Notice, including the rent provisions specified in 24 CFR 92.252(i)(2) for households whose income increases above 80 percent of area median income and whose contribution to rent complies with the requirements in Section VI.B.15.

    b. Units available for low-income households must be continuously occupied by households who are income eligible. The rents for these units must comply with the rent

limitations established in this Notice, including the rent provisions specified in 24 CFR 92.252(i)(2) for households whose income increases above 80 percent of area median income.

c. The units must comply with the ongoing property condition standards of 24 CFR 92.251(f) throughout the compliance period as demonstrated by an on-site inspection within 12 months of project completion and an on-site inspection at least once every three years thereafter as required by 24 CFR 92.504.

d. Each household that occupies a HOME-ARP unit has an executed lease that complies with the tenant protections required in Section VI.B.19 of this Notice.

19. **Tenant Protections**: PJs must verify that each household that occupies a HOME-ARP assisted unit has an executed lease that complies with the tenant protection requirements of this Notice. The lease must be either be between the project owner and the household or between the project owner and a HOME-ARP sponsor with a sublease between the qualifying household and HOME-ARP sponsor. A HOME-ARP sponsor is a nonprofit organization that provides housing or supportive services to qualifying households and facilitates the leasing of a HOME-ARP rental unit to a qualifying household or the use and maintenance of HOME-ARP TBRA by a qualifying household. PJs may permit a HOME-ARP sponsor to lease a HOME-ARP unit from an owner or execute a master lease with the owner of a HOME-ARP project for HOME-ARP units restricted for occupancy by qualifying households. The HOME-ARP sponsor may then sublease the HOME-ARP rental unit to the qualifying household. The sublease between the HOME-ARP sponsor and the qualifying household must comply with the rent limitations and tenant protection requirements of this Notice.

a. *Lease Requirement*: There must be a lease between the qualifying household or the low-income household and the owner of the HOME-ARP-assisted project in accordance with 24 CFR 92.253(a), except that a sublease is permitted if a HOME-ARP sponsor has executed a master lease or lease with the project owner for the leasing of the units restricted for occupancy by qualifying households.

b. *Prohibited Lease Terms*: The lease between the low-income household, qualifying household, or HOME-ARP sponsor and the HOME-ARP project owner or the sublease between the HOME-ARP sponsor and a qualifying household may not contain any of the prohibited lease terms specified in 24 CFR 92.253(b).

c. *Termination of tenancy*: An owner may not terminate the tenancy or refuse to renew the lease of a tenant of a HOME-ARP unit or of a HOME-ARP sponsor with a sublease with a qualifying household except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local laws; or for other good cause. Similarly, a HOME-ARP sponsor may not refuse to renew a sublease with a qualifying household except for serious or repeated violation of the terms and conditions of the sublease; for violation of applicable Federal, State, or local laws; or for

other good cause. An increase in the tenant's or sublessee's income does not constitute good cause.

In addition, if HOME-ARP funds were or are used to capitalize an operating cost assistance reserve or there is a current contract for the PJ to provide operating cost assistance to the project, an owner may not terminate the tenancy or refuse to renew the lease of a qualifying household because of the household's inability to pay rent during the minimum compliance period. A qualifying household's inability to pay rent shall mean that the qualifying household cannot pay more than 30 percent of the qualifying household's income toward rent, based on an income determination made by the PJ in the last 30 days.

Where there is no capitalized operating reserve or other operating cost assistance to cover the operating deficit for a HOME-ARP unit occupied by a qualifying household, the PJ may assist the qualifying household with HOME-ARP TBRA or supportive services in accordance with the requirements of this Notice.

The above tenant protections are necessary as HOME-ARP requires the PJ to perform underwriting that reviews the operating feasibility of units occupied by qualifying households for the 15-year compliance period to determine how HOME-ARP funds may address the potential for qualifying households to have little to no income to contribute toward rent.

To terminate or refuse to renew tenancy for any household occupying a HOME-ARP unit, the owner must serve written notice upon the tenant (and the HOME-ARP sponsor if the lease is between an owner and HOME-ARP sponsor) at least 30 days before termination of tenancy, specifying the grounds for the action. In the case of a sublease, to terminate or refuse to renew tenancy of a qualifying household, the HOME-ARP sponsor, in accordance with the policy established by the PJ, must notify the PJ in advance of serving written notice to the qualifying household and must serve written notice upon the qualifying household at least 30 days before termination of tenancy, specifying the grounds for the action.

20. **Coordinated Entry and Project-Specific Waitlists:** In accordance with Section IV.C of this Notice, PJs must determine whether an owner may use a CoC's CE, a CoC's CE and other referral sources, or a project-specific waitlist, to select qualifying households for HOME-ARP units restricted for occupancy by qualifying populations. PJs will make this determination on a project-by-project basis. Regardless of which method is selected, in all cases, the PJ must use a project-specific waitlist when selecting households to occupy units restricted for occupancy by low-income households. Any preferences among qualifying households must be disclosed in the HOME-ARP allocation plan through the PJ's public participation process in accordance with Section V.C. of this Notice. The written agreement between the PJ and the project owner must specify the method the owner must use for selecting qualifying households for admission to HOME-ARP units.

    a. The owner of a HOME-ARP rental project must adopt and follow written tenant selection policies and criteria for HOME-ARP units that:

i. Limits eligibility to households that meet one of the HOME-ARP qualifying populations definitions or low-income households in accordance with HOME-ARP requirements; Preferences for households in one or more of the HOME-ARP qualifying populations must comply with the PJ's preferences and the PJ's policies and procedures for applying those preferences, if any, and must not violate nondiscrimination requirements in 24 CFR 92.350.
ii. Do not exclude an applicant with a voucher under the section 8 Housing Choice Voucher Program (24 CFR 982), or an applicant participating in HOME, HOME-ARP or other Federal, state or local tenant-based rental assistance program because of the status of the prospective tenant as a holder of such a certificate, voucher, or comparable tenant-based assistance document;
iii. Limits eligibility or gives a preference to a particular qualifying population or segment of the qualifying population if permitted in its written agreement with the participating jurisdiction (and only if the limitation or preference is described in the participating jurisdiction's HOME-ARP allocation plan). A preference for households in one or more of the HOME-ARP qualifying populations must comply with the PJ's determined preference(s) and the PJ's policies and procedures for applying the preference(s), if any;
iv. Any limitation or preference must not violate nondiscrimination requirements in 24 CFR 92.350. If the PJ requires the use of a project-specific waitlist to select qualifying households and/or low-income households for occupancy of HOME-ARP units, provide for the selection of households from a written waiting list in the chronological order of their application, insofar as is practicable;
v. Gives prompt written notification to any rejected applicant of the grounds for any rejection; and,
vi. Complies with the VAWA requirements as described in 24 CFR 92.359.

b. *Project-Specific Waitlist – Low-Income Households*: A project owner must use a project-specific waitlist to select households to occupy units restricted for occupancy by low-income households in accordance with the tenant selection requirements of 24 CFR 92.253(d).

21. **Project Completion and Occupancy**: HOME-ARP rental projects must meet the definition of project completion at 24 CFR 92.2. If the PJ fails to complete a project within 4 years of project commitment, it must comply with the terminated project requirements at 24 CFR 92.205(e)(2). If the HOME-ARP units are not occupied by eligible qualifying households or low-income households within six months following project completion, the PJ, as applicable, must submit to HUD information on its efforts to coordinate with a CoC, homeless service providers, social service, and other public agencies to fill units for qualifying households or must submit marketing information and, if appropriate, a marketing plan to fill units for low-income households. The PJ must repay any HOME-ARP funds invested in units that are not rented to eligible qualifying or low-income households within 12 months of project completion.

22. **Penalties for Noncompliance**: The PJ must repay HOME-ARP funds invested in rental housing that is terminated before completion or otherwise does not comply with initial or ongoing requirements of this Notice during the compliance period, as follows:

a. If the noncompliance or termination occurs within the first 10 years of the compliance period, the PJ must repay the entire amount of HOME-ARP funds invested in the project.

b. If the noncompliance or termination occurs in years 11 through 15, the repayment amount will be reduced by 20 percent for each year beyond the initial 10-years during which time the project was compliant.

Repayment of the HOME-ARP funds is not required if the project owner sells or transfers, either voluntarily or involuntarily, the HOME-ARP project during the compliance period if (1) the HOME-ARP restrictions remain, (2) the project and new project owner continues to comply with all HOME-ARP requirements, and (3) any HOME-ARP funds remaining in a project's operating cost assistance reserve or reserve for replacement remain with the project and convey upon sale or transfer of the project as a restricted operating cost assistance reserve or reserve for replacement subject to HOME-ARP Notice requirements.

23. **Operating Cost Assistance Reserve - Management and Oversight**: The PJ must require that any HOME-ARP funds expended for project operating cost assistance reserves are held by the project owner in a separate interest-bearing account. The PJ must require the project owner to request written approval from the PJ prior to disbursing funds from the project operating cost assistance reserve. The PJ must review each requested distribution from the operating cost assistance reserve, including supporting documentation, to determine that the distribution is reasonable and necessary to cover the operating deficit associated with HOME-ARP units occupied by qualifying households. The PJ must, no less than annually, review the operating cost assistance reserve account to determine that the account is appropriately sized based on the projected operating deficits of HOME-ARP units restricted for occupancy by qualifying households. The PJ may require the project owner to enter into a deposit account control agreement for the operating cost assistance reserve where the PJ must approve disbursements from the account.

24. **End of Compliance Period and Return of Operating Cost Assistance Reserve**: Any unexpended operating cost assistance reserve remaining at the end of the compliance period must be returned as follows:

a. If the HOME-ARP rental project will continue to operate in accordance with the HOME-ARP requirements and serve qualifying households beyond the HOME-ARP 15-year compliance period as demonstrated by enforceable restrictions imposed by the PJ, the project can retain the operating cost assistance reserve amount to address any operating deficits associated with the HOME-ARP units occupied by qualifying households.

b. If the HOME-ARP project will not continue to operate in accordance with the HOME-ARP requirements and serve qualifying households beyond the 15-year HOME-ARP compliance period and the HOME-ARP grant has expired or is closed out, the remaining operating cost assistance reserve funds must be deposited in the PJ's local HOME

account and recorded as HOME program income receipt in the Integrated Disbursement and Information System (IDIS) and used for eligible costs under 24 CFR part 92.

C. Tenant-Based Rental Assistance (TBRA)

HOME-ARP funds may be used to provide tenant-based rental assistance to qualifying households ("**HOME-ARP TBRA**"). In HOME-ARP TBRA, the PJ assists a qualifying household with payments to cover the entire or insufficient amounts that the qualifying household cannot pay for housing and housing-related costs, such as rental assistance, security deposits, and utility deposits. HOME-ARP TBRA assisted households may choose to rent a unit in a HOME-ARP rental project or any other eligible rental unit. HOME-ARP TBRA is a form of rental assistance that is attached to the household and not a particular rental unit. Therefore, the HOME-ARP TBRA assisted household may choose to move to another unit with continued HOME-ARP TBRA as long as the new unit meets the applicable property standards of this Notice. If a HOME-ARP TBRA assisted household chooses to move, the rental assistance contract terminates and a new rental assistance contract for the new unit will be executed according to HOME-ARP TBRA requirements. The HOME-ARP TBRA assisted household must notify the PJ before moving in order to receive continued HOME-ARP TBRA.

1. **Tenant Selection**: Only individuals and families in the qualifying populations are eligible to receive HOME-ARP TBRA assistance. PJs must perform tenant selection in accordance with Section IV.C of this Notice. The PJ must select qualifying households for HOME-ARP TBRA in accordance with written tenant selection policies and criteria that are based on local housing needs established in the HOME-ARP allocation plan. The PJ must follow written tenant selection policies and criteria that:
   a. Limit eligibility to households that meet one of the HOME-ARP qualifying populations definitions in accordance with HOME-ARP requirements. Preferences for households in one or more of the HOME-ARP qualifying populations, if any, must comply with the preferences and/or method of prioritization in the PJ's HOME-ARP allocation plan and the PJ's policies and procedures for applying such preferences, if any, and must not violate nondiscrimination requirements in 24 CFR 92.350.
   b. If the PJ selects HOME-ARP TBRA applicants off a waiting list, it must provide for the selection of qualifying households from a written waiting list in accordance with the PJ's preferences or method of prioritization in the chronological order of their application, insofar as is practicable.
   c. Give prompt written notification to any rejected applicant of the grounds for any rejection, and
   d. Comply with the VAWA requirements as described in 24 CFR 92.359.

   Finally, the PJ may offer, in conjunction with HOME-ARP TBRA assistance, a simultaneous award of services in accordance with Section VI.D of this Notice, and also provide particular types of other nonmandatory services that may be most appropriate for persons with a special need or a particular disability. Any provision of supportive services must comply with all requirements of Section VI.D of the Notice and the PJ's policies and procedures.

2. **Tenant Protections**: PJs must require and verify that there is an executed lease between the qualifying household that receives HOME-ARP TBRA and the owner of the rental unit or between the owner of the rental unit and a HOME-ARP sponsor with a sublease between the qualifying households and the HOME-ARP sponsor, in accordance with 24 CFR 92.253(a). A HOME-ARP sponsor is a nonprofit organization that provides housing or supportive services to qualifying households and facilitates the leasing of a rental unit to a qualifying household or the use and maintenance of HOME-ARP TBRA by a qualifying household. PJs may permit a HOME-ARP sponsor, as defined in Section VI.B.19, to execute a lease or master lease with a project owner. The HOME-ARP sponsor must then sublease a unit to a qualifying household. The lease between the qualifying household and the rental unit owner or the sublease between the HOME-ARP sponsor and the qualifying household cannot contain any of the prohibited lease terms specified in 24 CFR 92.253(b).

3. **Eligible Costs:** Eligible costs under HOME-ARP TBRA include rental assistance, security deposit payments, and utility deposit assistance to qualifying households. HOME-ARP funds may be used to pay for up to 100% of these eligible costs. A PJ may use HOME-ARP TBRA funds to provide loans or grants to qualifying households for security deposits for rental units regardless of whether the PJ provides any other HOME-ARP TBRA assistance. The amount of funds that may be provided for a security deposit may not exceed the equivalent of two months' rent for the unit. Utility deposit assistance is an eligible cost only if rental assistance or a security deposit payment is provided. Costs of inspecting the housing are also eligible as costs of HOME-ARP TBRA. Administration of HOME-ARP TBRA is an eligible cost only if executed in accordance with general management oversight and coordination at 24 CFR 92.207(a), except that the costs of inspecting the housing and determining the income eligibility of the family are eligible project costs under HOME-ARP TBRA.

4. **Ineligible Costs:** HOME-ARP TBRA may not be used to pay for the homebuyer program as defined at 24 CFR 92.209(c)(2)(iv).

5. **Portability of Assistance:** A PJ may require the HOME-ARP TBRA assisted household to use HOME-ARP TBRA within the PJ's boundaries or may permit the household to use the assistance outside its boundaries pursuant to 24 CFR 92.209(d).

6. **Term of Rental Assistance Contract:** The requirements at 24 CFR 92.209(e) defining the term of the rental assistance contract for providing assistance with HOME funds are waived for HOME-ARP TBRA. The PJ must determine the maximum term of the rental assistance contract. The rental assistance contract continues until the end of the rental assistance contract term, as determined by the PJ, or until the lease or sublease is terminated, whichever occurs first. The term of the rental assistance contract may be renewed, subject to the availability of HOME-ARP funds. The term of the rental assistance contract must begin on the first day of the term of the lease or sublease. HOME-ARP TBRA funds cannot be used after the end of the budget period.

7. **Maximum Subsidy:** The PJ must establish policies for the allowable maximum subsidy, which may differ from the maximum subsidy requirements at 24 CFR 92.209(h). PJs may

provide up to 100 percent subsidy for rent, security deposit payments, and utility bills. The PJ must also establish policies for determining any household contribution to rent based on a determination of the qualifying household's income.

8. **Rent Standard:** Consistent with 24 CFR 92.209(h)(3), PJs must also establish a rent standard for HOME-ARP TBRA by unit size that is based upon local market conditions or the section 8 Housing Choice Voucher program under 24 CFR part 982. The PJ must determine whether the rent for a HOME-ARP TBRA household complies with the rent standard established by the PJ for the HOME-ARP program and must disapprove a lease if the rent does not meet the PJ's rent standard for HOME-ARP TBRA.

9. **Housing Quality Standards:** Housing occupied by a household receiving HOME-ARP TBRA must comply with all housing quality standards required in 24 CFR 982.401 (or successor inspection standards issued by HUD) unless the tenant is residing in a HOME or HOME-ARP unit, in which case the PJ may defer to initial and ongoing inspection standards.

10. **Program Operation:** The PJ may operate HOME-ARP TBRA itself or may contract with a PHA or other entity with the capacity to operate a rental assistance program. In either case, the PJ or entity operating the program must approve the lease. HOME-ARP TBRA may be provided through an assistance contract with (1) an owner that leases a unit to a qualifying household; (2) the qualifying household, or (3) an owner and the qualifying household in a tri-party contract. In the case of HOME-ARP TBRA provided in coordination with a HOME-ARP sponsor, as described below, the PJ may require that payments be made directly to the HOME-ARP sponsor that will make rental payments to the owner on behalf of the qualifying household or require payments directly to the owner of the unit.

11. **HOME-ARP TBRA with a HOME-ARP Sponsor:** HOME-ARP TBRA may be provided in coordination with a HOME-ARP sponsor. As defined in Section VI.B.19, a HOME-ARP sponsor is a nonprofit organization that provides housing or supportive services to qualifying households and facilitates the leasing of a HOME-ARP rental unit to a qualifying household or the use and maintenance of HOME-ARP TBRA by a qualifying household. A HOME-ARP sponsor may make rental subsidy payments and a security deposit payment on behalf of a qualifying household. Under HOME-ARP TBRA, a qualifying household may reside in housing leased by a HOME-ARP sponsor if there is a sublease that complies with HOME-ARP lease requirements between the HOME-ARP sponsor and the qualifying household.

    a. *Rental Assistance Contract*: There must be a rental assistance contract between the PJ and at least one of the following:
        - HOME-ARP sponsor;
        - Qualifying household; or
        - Owner of the housing.

    Rental subsidy payments are made on behalf of the HOME-ARP TBRA household pursuant to a rental assistance contract. The rental assistance contract continues until the

lease is terminated or the term of the rental assistance contract expires (and is not renewed). Regardless of the role of the HOME-ARP sponsor, the HOME-ARP TBRA household has the right to continued HOME-ARP TBRA assistance if the household chooses to move from the unit. HOME-ARP TBRA funds cannot be used beyond the end of the HOME-ARP budget period.

The HOME-ARP sponsor may only receive the TBRA subsidy directly from the PJ on behalf of the qualifying household if the rental assistance contract is between the HOME-ARP sponsor and the PJ or the HOME-ARP sponsor and the PJ have entered into a written agreement as outlined below. The HOME-ARP sponsor must make rental subsidy payments to the owner on behalf of the qualifying household per the terms and conditions of the HOME-ARP TBRA contract or written agreement with the PJ. When the HOME-ARP TBRA assisted household moves to a new unit, the HOME-ARP sponsor is not required to continue its sponsor relationship with the HOME-ARP TBRA assisted household for the new rental unit but may do so with the consent of the HOME-ARP TBRA household.

The PJ must establish policies and procedures regarding termination of HOME-ARP TBRA assistance for qualifying households who are absent from the rental unit for a minimum of 60 days and where a HOME-ARP sponsor is leasing the rental unit and subleasing to the qualifying household or providing HOME-ARP TBRA rental subsidy payments on behalf of the household.

b. *Lease and Sublease*: PJs must require and verify that each household that receives HOME-ARP TBRA assistance has an executed lease that complies with the tenant protection requirements of this Notice. The lease agreement may be between the project owner and the HOME-ARP TBRA household, or PJs may permit a HOME-ARP sponsor to execute a lease with an owner for an individual unit or a master lease for more than one unit restricted for occupancy by HOME-ARP TBRA households. If the lease agreement is between the HOME-ARP sponsor and owner, the HOME-ARP sponsor must execute a sublease agreement with a HOME-ARP TBRA household. The sublease between the HOME-ARP sponsor and the HOME-ARP TBRA household must meet the tenant protection requirements of this Notice.

c. *Written Agreement with HOME-ARP Sponsor*: The PJ must enter into a written agreement with the HOME-ARP sponsor if the HOME-ARP TBRA rental assistance contract is not with the HOME-ARP sponsor and the HOME-ARP sponsor will receive the HOME-ARP TBRA subsidy directly from the PJ. The written agreement must specify the requirements for the HOME-ARP sponsor receiving the HOME-ARP TBRA subsidy on behalf of the qualifying household and the HOME-ARP sponsor's obligation to provide the HOME-ARP TBRA payment to the owner for the unit's required rent.

12. Project Completion: Project completion for a HOME-ARP TBRA project means the final drawdown has been disbursed for the project.

D. Supportive Services

HOME-ARP funds may be used to provide a broad range of supportive services to qualifying individuals or families as a separate activity or in combination with other HOME-ARP activities. Supportive services include: a) services listed in section 401(29) of the McKinney-Vento Homeless Assistance Act ("**McKinney-Vento Supportive Services**")[1] (42 U.S.C. 11360(29)); b) homelessness prevention services , as described in Section VI.D.3. and D.4 below; and c) housing counseling services.

1. **Eligible Program Participants**: Supportive services may be provided to individuals and families who meet the definition of a qualifying population under Section IV.A of this Notice and who are not already receiving these services through another program. Program participants in other HOME-ARP activities are eligible for supportive services under this Notice in accordance with policies and procedures developed by the PJ. These policies and procedures should identify the length of time that program participants may be served by HOME-ARP TBRA and/or HOME ARP rental housing before they will no longer be eligible as a qualifying population for purposes of this section.

2. **Client Selection**: HOME-ARP funds may only be used to provide supportive services to individuals or families that meet the definition of a qualifying population in Section IV.A of this Notice. PJs must develop policies and procedures for the selection of program participants for services under this section of the Notice that comply with Section IV.C and this section of this Notice.

3. **Eligible Supportive Services under HOME-ARP**: There are three categories specifically included as supportive services under HOME-ARP:

    a. *McKinney-Vento Supportive Services*: McKinney-Vento Supportive Services under HOME-ARP are adapted from the services listed in section 401(29) of McKinney-Vento.

    b. *Homelessness Prevention Services*: HOME-ARP Homelessness Prevention Services are adapted from eligible homelessness prevention services under the regulations at 24 CFR 576.102, 24 CFR 576.103, 24 CFR 576.105, and 24 CFR 576.106, and are revised, supplemented, and streamlined in Section VI.D.4.c.i below.

    c. *Housing Counseling Services*: Housing counseling services under HOME-ARP are those consistent with the definition of housing counseling and housing counseling services defined at 24 CFR 5.100 and 5.111, respectively, except where otherwise noted. The requirements at 24 CFR 5.111 state that any housing counseling, as defined in 24 CFR 5.100, required under or provided in connection with any program administered by HUD shall be provided only by organizations and counselors certified by the Secretary under 24 CFR part 214 to provide housing counseling, consistent with 12 U.S.C. 1701x.

[1] The Consolidated Appropriations Act, 2021 (P.L. 116-260) enacted changes that renumbered section 401(27) to (29) of McKinney-Vento.

HUD-approved Housing Counseling Agencies can be found on HUD's website at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/hcc.

Program requirements and administration under 24 CFR part 214 apply to the provision of HOME-ARP Housing Counseling supportive services except those provisions related to current homeowners do not apply. Eligible HOME-ARP topics under Housing Counseling include but are not limited to the following examples:

Rental Housing Counseling Topics (24 CFR 214.300(e)(4))	**Pre-Purchase Homebuying Topics** (24 CFR 214.300(e)(1))	**Homeless Services Topics** (24 CFR 214.300(e)(5))
HUD rental and rent subsidy programs	Advice regarding readiness and preparation	Homeless assistance information regarding emergency shelter
Other federal, state, or local assistance	Federal Housing Administration insured financing	Other emergency services
Fair housing	Housing selection and mobility	Transitional housing
Rental search assistance	Housing search assistance	Referral to local, state, and federal resources (24 CFR 214.300(b)(2))
Landlord tenant laws	Fair housing and predatory lending	
Lease terms	Budgeting and credit	
Rent delinquency	Loan product comparison	
Referrals to local, state, and federal resources	Purchase procedures and closing costs	
	Referrals to local, state, and federal resources	

Housing Counseling surrounding the following topics are **ineligible** under HOME-ARP:

- Resolving or preventing mortgage delinquency, including, but not limited to default and foreclosure, loss mitigation, budgeting, and credit;
- Home maintenance and financial management for homeowners, including, but not limited to: Escrow funds, budgeting, refinancing, home equity, home improvement, utility costs, energy efficiency, rights and responsibilities of homeowners, and reverse mortgages.

In accordance with 24 CFR 214.300(a)(2), housing counselors must establish an action plan for each participating qualifying individual or family. Additionally, as per 24 CFR

214.300(c), housing counselors must also make reasonable efforts to have follow-up communications with participating qualifying individuals, when possible, to assure that the individual or family is progressing toward the housing goal established in the plan, to modify or terminate housing counseling, and to learn and report outcomes.

4. **Eligible Costs of Supportive Services for Qualifying Individuals and Families**: HOME-ARP funds may be used to pay eligible costs associated with the HOME-ARP supportive services activity in accordance with the requirements in this Notice. Eligible costs that may be paid using HOME-ARP funds are limited to only those identified in Section VI.D.4.c below. Any ineligible costs paid using HOME-ARP funds must be repaid in accordance with the requirements of this Notice.

   HUD has used its discretion in ARP to include eligible costs for supportive services that are necessary to assist the qualifying populations, prevent homelessness, or to enable qualifying households to obtain and maintain housing. The list of eligible costs associated with McKinney-Vento Supportive Services and Homelessness Prevention Services is in Section VI.D.4.c.i of this Notice.

   While all qualifying households are eligible to receive supportive services under this activity, the PJ must establish requirements for documenting eligible costs for an individual or family in a qualifying population (as defined in Section IV.A of this Notice) as McKinney-Vento supportive services, homelessness prevention services, or Housing Counseling.

   If a person is homeless, then the person is eligible to be provided the supportive services as McKinney-Vento supportive services for the costs allowable in Section VI.D.4.c below. If a person is housed and the supportive services are intended to help the program participant regain stability in the program participant's current permanent housing or move into other permanent housing to achieve stability in that housing then the person is eligible for homelessness prevention services for the costs allowable in Section VI.D.4.c.i below. Housing Counseling services may be provided regardless of whether a person is homeless or currently housed.

   PJs must document in their files which types of supportive services they wish to offer program participants. If PJs are using a supportive services provider, PJs must document in their written agreements with supportive service providers whether they are authorizing McKinney-Vento supportive services, homelessness prevention services, Housing Counseling services or some combination of the three. Only the supportive services that are authorized in the written agreement with the supportive service provider may be provided to program participants by that supportive service provider and only program participants that are eligible for those supportive services may be served. As such, supportive services providers must demonstrate through their documentation that the individuals served were eligible to receive the supportive services that were authorized under the written agreement in order for those costs to be eligible.

Consistent with the requirements in this section, the PJ may set a maximum dollar amount that a program participant may receive for each type of service described in Section VI.D.4.c. below and may also set a maximum period for which a program participant may receive any of the types of assistance or services.

a. *Oversight of Eligible Costs*: All supportive service costs paid for by HOME-ARP must comply with the requirements of this Notice, including requirements in 2 CFR part 200, subpart E, Cost Principles that require costs be necessary and reasonable. If a qualifying household is already receiving the same eligible supportive service or has been approved to receive the same service through another program or provider, the program participant does not have a need for the HOME-ARP service and the costs related to the service do not comply with the Cost Principles. The PJ is responsible for establishing requirements that allow a program participant to receive only the HOME-ARP services needed so there is no duplication of services or assistance in the use of HOME-ARP funds for supportive services. This may include the use of systems such as Homeless Management Information Systems in coordination with local supportive service providers, CoCs, and other nonprofit organizations.

b. *Direct provision of services*: PJs contracting with service providers engaged directly in the provision of services under the HOME-ARP eligible supportive services categories, shall have written agreements or contracts that comply with the requirements of this Notice and, to the extent practicable, enter into agreements or contracts in amounts that cover the actual total program costs and administrative overhead to provide the services contracted.

   If the services outlined in paragraph c. below are being directly delivered by the PJ or a subrecipient, the following costs are eligible project delivery costs for those services:

   - the costs of labor or supplies and materials incurred by the PJ or subrecipient in directly providing supportive services to program participants.
   - the salary and benefit packages of the PJ and subrecipient staff who directly deliver the services.

   These project delivery costs must be attributable to the identifiable objective of the service delivered, otherwise they are administrative costs of the PJ or subrecipient.

c. *Eligible Costs*:

   i. *Eligible Costs for McKinney Vento Supportive Services and Homelessness Prevention Services*: Eligible costs for supportive services under either of these two categories include costs associated with the following services:

      (A) Child care: The costs of child care for program participants, including providing meals and snacks, and comprehensive and coordinated developmental activities, are eligible. The child care center must be licensed by the jurisdiction in which it operates in order for its costs to be eligible. The following conditions also apply:

- Children must be under the age of 13 unless the children have a disability.
- Children with a disability must be under the age of 18.

(B) Education services: The costs of improving knowledge and basic educational skills are eligible costs including:

- Instruction or training in consumer education, health education, substance abuse prevention, literacy, English as a Second Language, and General Educational Development (GED).
- Screening, assessment, and testing; individual or group instruction; tutoring; provision of books, supplies, and instructional material; counseling; and referral to community resources.

(C) Employment assistance and job training: The costs of establishing and/or operating employment assistance and job training programs are eligible, including classroom, online and/or computer instruction, on-the-job instruction, services that assist individuals in securing employment, acquiring learning skills, and/or increasing earning potential. The cost of providing reasonable stipends to program participants in employment assistance and job training programs is also an eligible cost.

- Learning skills include those skills that can be used to secure and retain a job, including the acquisition of vocational licenses and/or certificates.
- Services that assist individuals in securing employment consist of:
  - Employment screening, assessment, or testing;
  - Structured job skills and job-seeking skills;
  - Special training and tutoring, including literacy training and pre-vocational training;
  - Books and instructional material;
  - Counseling or job coaching; and
  - Referral to community resources.

(D) Food: The cost of providing meals or groceries to program participants is eligible.

(E) Housing search and counseling services: Costs of assisting eligible program participants to locate, obtain, and retain suitable housing are eligible. Services are:

- Development of an action plan for locating housing;
- Housing search;
- Tenant counseling;
- Securing utilities;
- Making moving arrangements;
- Outreach to and negotiation with owners;
- Assistance submitting rental applications and understanding leases;
- Assessment of housing for compliance with HOME-ARP requirements for TBRA assistance in Section VI.C of this Notice and financial

assistance for short-term and medium-term rental payments provided under Section VI.D.4.c.i.(R) below;
- Assistance obtaining utilities; and
- Tenant counseling;
- Mediation with property owners and landlords on behalf of eligible program participants;
- Credit counseling, accessing a free personal credit report, and resolving personal credit issues; and
- Payment of rental application fees;
- Other Housing counseling costs, as defined in 24 CFR 5.100, funded with or provided in connection with grant funds must be carried out in accordance with 24 CFR 5.111.

Please Note: When PJs or subrecipients provide housing services to eligible persons that are incidental to a larger set of holistic case management services, these services do not meet the definition of Housing counseling, as defined in 24 CFR 5.100, and therefore are not required to be carried out in accordance with the certification requirements of 24 CFR 5.111.

(F) Legal services: Eligible costs are the fees charged by licensed attorneys and by person(s) under the supervision of licensed attorneys, for advice and representation in matters that interfere with a qualifying individual or family's ability to obtain and retain housing.
- Eligible subject matters are child support; guardianship; paternity; emancipation; legal separation; orders of protection and other legal remedies for victims of domestic violence, dating violence, sexual assault, human trafficking, and stalking; appeal of veterans and public benefit claim denials; landlord-tenant disputes; and the resolution of outstanding criminal warrants; landlord/tenant matters, provided that the services must be necessary to resolve a legal problem that prohibits the program participant from obtaining permanent housing or will likely result in the program participant losing the permanent housing in which the program participant currently resides.
- Legal services for immigration and citizenship matters and for issues related to mortgages and homeownership are ineligible. Retainer fee arrangements and contingency fee arrangements are prohibited.
- Services may include client intake, receiving and preparing cases for trial, provision of legal advice, representation at hearings, and counseling.
- Fees based on the actual service performed (i.e., fee for service) are also eligible, but only if the cost would be less than the cost of hourly fees. Filing fees and other necessary court costs are also eligible. If the subrecipient is a legal services provider and performs the services itself, the eligible costs are the subrecipient's employees' salaries and other costs necessary to perform the services.

(G) Life skills training: The costs of teaching critical life management skills that may never have been learned or have been lost during the course of physical or mental illness, domestic violence, dating violence, sexual assault, stalking, human trafficking, substance abuse, and homelessness are eligible. These services must be necessary to assist the program participant to function independently in the community. Life skills training includes:

- the budgeting of resources and money management, household management, conflict management, shopping for food and other needed items, nutrition, the use of public transportation, and parent training.

(H) Mental health services: Eligible costs are the direct outpatient treatment of mental health conditions that are provided by licensed professionals.

- Mental health services are the application of therapeutic processes to personal, family, situational, or occupational problems in order to bring about positive resolution of the problem or improved individual or family functioning or circumstances. Problem areas may include family and marital relationships, parent-child problems, or symptom management.
- Services are crisis interventions; counseling; individual, family, or group therapy sessions; the prescription of psychotropic medications or explanations about the use and management of medications; and combinations of therapeutic approaches to address multiple problems.

(I) Outpatient health services: Eligible costs are the direct outpatient treatment of medical conditions when provided by licensed medical professionals including:

- Providing an analysis or assessment of a program participant's health problems and the development of a treatment plan;
- Assisting program participants to understand their health needs;
- Providing directly or assisting program participants to obtain and utilize appropriate medical treatment;
- Preventive medical care and health maintenance services, including in-home health services and emergency medical services;
- Provision of appropriate medication;
- Providing follow-up services; and
- Preventive and non-cosmetic dental care.

(J) Outreach services: The costs of activities to engage qualified populations for the purpose of providing immediate support and intervention, as well as identifying potential program participants, are eligible.

- Eligible costs include the outreach worker's transportation costs and a cell phone to be used by the individual performing the outreach.
- Costs associated with the following services are eligible: initial assessment; crisis counseling; addressing urgent physical needs, such as providing meals, blankets, clothes, or toiletries; actively connecting and providing people with information and referrals to homeless and

mainstream programs; and publicizing the availability of the housing and/or services provided within the PJ's geographic area.

(K) Substance abuse treatment services: Eligible substance abuse treatment services are designed to prevent, reduce, eliminate, or deter relapse of substance abuse or addictive behaviors and are provided by licensed or certified professionals. The costs include:

- Program participant intake and assessment;
- Outpatient treatment;
- Group and individual counseling
- Drug testing;
- Inpatient detoxification and other inpatient drug or alcohol treatment are ineligible.

(L) Transportation: Eligible costs are:

- The costs of program participant's travel on public transportation or in a vehicle provided by the PJ or subrecipient to and from medical care, employment, childcare, or other services eligible under this Notice;
- Mileage allowance for service workers to visit program participants and to carry out housing inspections;
- The cost of purchasing or leasing a vehicle in which staff transports program participants and/or staff serving program participants;
- The cost of gas, insurance, taxes, and maintenance for the vehicle;
- The costs of PJ or subrecipient staff to accompany or assist program participants to utilize public transportation; and
- If public transportation options are not sufficient within the area, the PJ may make a one-time payment on behalf of a program participant needing car repairs or maintenance required to operate a personal vehicle, subject to the following:
  - Payments for car repairs or maintenance on behalf of the program participant may not exceed 10 percent of the Blue Book value of the vehicle (Blue Book refers to the guidebook that compiles and quotes prices for new and used automobiles and other vehicles of all makes, models, and types);
  - Payments for car repairs or maintenance must be paid by the PJ or subrecipient directly to the third party that repairs or maintains the car; and
  - PJs or subrecipients may require program participants to share in the cost of car repairs or maintenance as a condition of receiving assistance with car repairs or maintenance.
- The PJ must establish policies and procedures surrounding payments for the cost of gas, insurance, taxes, the one-time payment for car repairs or maintenance described above, and maintenance for vehicles of program participants. Such costs must be limited to program participants with the inability to pay for such costs and who, without such assistance, would not be able to participate in eligible services under this Section VI.D.4.c.i.

(M) Case management: The costs of assessing, arranging, coordinating, and monitoring the delivery of individualized services to meet the needs of the program participant(s) are eligible costs. PJs and subrecipients providing these supportive services must have written standards for providing the assistance. Eligible costs are those associated with the following services and activities:

- Conducting the initial evaluation, including verifying and documenting eligibility, for individuals and families applying for supportive services;
- Counseling;
- Developing, securing, and coordinating services;
- Using a centralized or coordinated assessment system that complies with the requirements of Section IV.C of the Notice;
- Obtaining federal, State, and local benefits;
- Monitoring and evaluating program participant progress;
- Providing information and referrals to other providers;
- Providing ongoing risk assessment and safety planning with victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking;
- Developing an individualized housing and service plan, including planning a path to permanent housing stability; and
- Conducting re-evaluations of the program participant's eligibility and the types and amounts of assistance the program participant needs.

(N) Mediation: HOME-ARP funds may pay for mediation between the program participant and the owner or person(s) with whom the program participant is living, provided that the mediation is necessary to prevent the program participant from losing permanent housing in which the program participant currently resides.

(O) Credit repair: HOME-ARP funds may pay for credit counseling and other services necessary to assist program participants with critical skills related to household budgeting, managing money, accessing a free personal credit report, and resolving personal credit problems. This assistance does not include the payment or modification of a debt.

(P) Landlord/Tenant Liaison: Costs of liaison services between property managers/owners and program participants are eligible HOME-ARP costs and may include:

- Landlord outreach;
- Physical inspections and rent reasonable studies as needed to secure units;
- Rental application fees and security deposits for clients, in accordance with the financial assistance costs requirements in (R);
- Mediation services in (N) for housing issues that may arise between owner, property manager, or other residents and clients;

- Coordination or assistance with the provision of other HOME-ARP eligible services to assist clients to maintain permanent housing.

(Q) Services for special populations: HOME-ARP funds may be used to provide services for special populations, such as victim services, so long as the costs of providing these services are eligible under this section. The term victim services means services that assist program participants who are victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking including services offered by rape crisis centers and domestic violence shelters, and other organizations with a documented history of effective work concerning domestic violence, dating violence, sexual assault, stalking, or human trafficking.

(R) Financial assistance costs: HOME-ARP funds may be used to pay housing owners, utility companies, and other third parties for the following costs, as applicable:

- Rental application fees: Rental housing application fee that is charged by the owner to all applicants.
- Security deposits: A security deposit that is equal to no more than 2 months' rent. This assistance is separate and distinct from the provision of financial assistance for First and Last Month's rent provided under this section and cannot be used to duplicate those costs.
- Utility deposits: HOME-ARP funds may pay for a standard utility deposit or initiation fee required by the utility company or owner (if owner-paid utilities are provided) for all program participants for the following utilities:
  - Gas
  - Electric
  - Water
  - Sewer
- Utility payments: HOME-ARP funds may pay for up to 24 months of utility payments per program participant, per service, including up to 6 months of utility payments in arrears, per service. A partial payment of a utility bill counts as one month. This assistance may only be provided if the program participant or a member of the same household has an account in his or her name with a utility company or proof of responsibility to make utility payments. Eligible utility services are gas, electric, water, and sewage. No program participant shall receive more than 24 months of utility assistance within any 3-year period.
- Moving costs: HOME-ARP funds may pay for moving costs, such as truck rental or hiring a moving company. This assistance may include payment of temporary storage fees for up to 3 months, provided that the fees are accrued after the date the program participant begins receiving assistance under this section of the Notice and before the program participant moves into permanent housing. Payment of temporary storage fees in arrears is not eligible.

- First and Last month's rent: If necessary to obtain housing for a program participant, HOME-ARP funds may be used to make a pre-payment of the first and last month's rent under a new lease to the owner at the time the owner is paid the security deposit for the program participant's tenancy in the housing. This assistance must not exceed two month's rent and must be tracked for purposes of determining the total short- and medium-term financial assistance for rent that the program participant may receive. This assistance is separate and distinct from financial assistance for Security Deposits provided under this section and cannot be used to duplicate those costs.
- Payment of rental arrears: HOME-ARP funds may be used for a one-time payment for up to 6 months of rent in arrears, including any late fees or charges on those arrears, if necessary for the household to maintain their existing housing or, for those without housing, if necessary to remove a demonstrated barrier to obtaining housing.

(S) Short-term and medium-term financial assistance for rent: Subject to the following conditions, a PJ may provide a program participant with short-term or medium-term financial assistance for rent, provided that the total financial assistance provided, including any pre-payment of first and last month's rent as described above, does not exceed 24 months of rental payments over any 3-year period.

- Short-term means up to 3 months.
- Medium-term means more than 3 months but not more than 24 months.
- The PJ may make rental payments only to an owner with whom the PJ has entered into a financial assistance agreement for rental payment. The financial assistance agreement must set forth the terms under which rental payments will be provided, including the requirements that apply under this Notice. The financial assistance agreement must provide that, during the term of the agreement, the owner must give the PJ a copy of any notice to the program participant to vacate the housing unit or any complaint used under State or local law to commence an eviction action against the program participant. The owner must serve written notice upon the program participant at least 30 days before termination of tenancy specifying the grounds for the action. Each financial assistance agreement that is executed or renewed must comply with the requirements in 24 CFR 92.359.
- The PJ must make timely payments to each owner in accordance with the financial assistance agreement. The financial assistance agreement must contain the same payment due date, grace period, and late payment penalty requirements as the program participant's lease. The PJ is solely responsible for paying late payment penalties that it incurs with non-HOME-ARP funds.
  - Rental payments cannot be provided unless the rent does not exceed the Fair Market Rent established by HUD, as provided under 24 CFR

part 888, and complies with HUD's standard of rent reasonableness, as established under 24 CFR 982.507.

- Each program participant receiving financial assistance for rental payments must have a legally binding, written lease for the rental unit, unless the assistance is solely for rental arrears. The lease must be between the owner and the program participant. Where the financial assistance is solely for rental arrears, an oral agreement may be accepted in place of a written lease, if the agreement gives the program participant an enforceable leasehold interest under state law and the agreement and rent owed are sufficiently documented by the owner's financial records, rent ledgers, or canceled checks. New leases must have an initial term of 1 year unless a shorter period is agreed upon by the program participant and owner. The lease requirements in 24 CFR 92.359 apply to this financial assistance.
- PJs must establish requirements to prevent the provision of short- or medium-term financial assistance for rent for the same period for which a program participant is receiving rental assistance or living in housing provided with ongoing assistance (such as project-based rental assistance or operating subsidies).
- If a program participant receiving financial assistance for short- or medium-term rental payments under this section meets the conditions for an emergency transfer under 24 CFR 5.2005(e), HOME-ARP funds may be used to pay amounts owed for breaking a lease to effectuate an emergency transfer. These costs are not subject to the 24-month limit on rental payments.

Ineligible costs - Financial assistance cannot be provided to a program participant who is receiving the same type of assistance through other public sources. Financial assistance also cannot be provided to a program participant who has been provided with replacement housing payments under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 USC 4601 et seq.) and its implementing regulations at 49 CFR part 24, or Section 104(d) of the Housing and Community Development Act of 1974 (42 USC 5304(d) and its implementing regulations at 24 CFR part 42, during the period of time covered by the replacement housing payments.

ii. *Eligible Costs Associated with Housing Counseling under 24 CFR 5.100 and 5.111*: Costs associated with housing counseling services as defined at 24 CFR 5.100 and 5.111 are eligible under HOME-ARP. As homeowner assistance and related services are not eligible HOME-ARP activities, costs for the provision of services related to mortgages and homeownership to existing homeowners are also not eligible under HOME-ARP. If a program participant is a candidate for homeownership, costs associated with pre-purchase homebuying counseling, education and outreach are eligible under HOME-ARP. Eligible costs are those costs associated with the services listed in 24 CFR part 214 and include, but are not limited to:

(A) Staff salaries and overhead costs of HUD-certified housing counseling agencies related to directly providing eligible housing counseling services to HOME-ARP program participants;
(B) Development of a housing counseling workplan;
(C) Marketing and outreach;
(D) Intake;
(E) Financial and housing affordability analysis;
(F) Action plans that outline what the housing counseling agency and the client will do to meet the client's housing goals and that address the client's housing problem(s);
(G) Follow-up communication with program participants.

5. **Termination of assistance to program participants**:

   a. *Termination of assistance*: The PJ may terminate assistance to a program participant who violates program requirements or conditions of occupancy or no longer needs the services as determined by the PJ. Termination under this section does not bar the PJ from providing further assistance at a later date to the same individual or family under this Notice.

   b. *Due process*: The PJ must establish policies and procedures for termination of assistance to program participants. In terminating assistance to a program participant, the PJ must provide a formal process that recognizes the rights of individuals receiving assistance under the due process of law. This process, at a minimum, must consist of:
      i. Providing the program participant with a written copy of the program rules and the termination process before the participant begins to receive assistance;
      ii. Written notice to the program participant containing a clear statement of the reasons for termination;
      iii. A review of the decision, in which the program participant is given the opportunity to present written or oral objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and
      iv. Prompt written notice of the final decision to the program participant.

   During this process, the PJ must provide effective communication and accessibility for individuals with disabilities, including the provision of reasonable accommodations. Similarly, the PJ must provide meaningful access to persons with LEP.

6. **Commitment:** For supportive services, commitment means that before disbursing any HOME-ARP funds to any entity, the PJ executed a legally binding written agreement that complies with HOME-ARP requirements with the contractor or subrecipient providing the supportive service (that includes the date of the signature of each person signing the agreement).

7. **Policies and Procedures:** PJs must establish the following policies and procedures in compliance with this notice:

a. Tenant selection procedures in accordance with Section IV.C.2 and this section;

b. Eligibility of program participants in other HOME-ARP activities for supportive services under Section VI.D.4.c.i above including the length of time that program participants may be served by HOME-ARP TBRA and/or HOME ARP rental housing before they will no longer be eligible as a qualifying population for purposes of this section;

c. If the PJ chooses to set maximum amounts and/or maximum periods for assistance or services, the maximum dollar amount that a program participant may receive for each type of service described in Section VI.D.4.c.i above and/or maximum periods for which a program participant may receive any of the types of assistance or services under this section;

d. Documentation of eligible costs;

e. Requirements that allow a program participant to receive only the HOME-ARP services needed so there is no duplication of services or assistance in the use of HOME-ARP funds for supportive services;

f. Payments for the cost of gas, insurance, taxes, the one-time payment for car repairs or maintenance described above, and maintenance for vehicles of program participants;

g. Financial assistance for short-term and medium-term rental payments under this Notice, including requirements to prevent a duplication of rental or financial assistance provided to a program participant;

h. Housing stability case management; and

i. Termination of assistance to program participants.

8. **Project Completion**: Project completion for a HOME-ARP Supportive Services project means the final drawdown has been disbursed for the project.

E. Acquisition and Development of Non-Congregate Shelter

A non-congregate shelter (NCS) is one or more buildings that provide private units or rooms as temporary shelter to individuals and families and does not require occupants to sign a lease or occupancy agreement. HOME-ARP funds may be used to acquire and develop HOME-ARP NCS for individuals and families in qualifying populations. This activity may include but is not limited to the acquisition of land and construction of HOME-ARP NCS or acquisition and/or rehabilitation of existing structures such as motels, hotels, or other facilities to be used for HOME-ARP NCS. HOME-ARP funds may not be used to pay the operating costs of HOME-ARP NCS. Consequently, PJs must consider the availability of ongoing operating funds for the HOME-ARP NCS so that the HOME-ARP NCS can remain viable through the restricted use period specified in this Notice.

During the restricted use period, HOME-ARP NCS may:

- Remain as HOME-ARP NCS in compliance with the requirements of this Notice.
- Be used as a non-congregate emergency shelter under the Emergency Solutions Grants (ESG) program (Subtitle B of title IV of the McKinney-Vento Homeless Assistance Act) (42 USC 11371 et seq.), in which case the non-congregate shelter must be operated in compliance with all requirements at 24 CFR part 576 that apply when ESG funds are provided for operating costs or essential services in the shelter. During any period for which ESG funds are provided, the applicable ESG requirements shall govern in the event of any conflict with HOME-ARP requirements.
- Be converted to permanent affordable housing according to the requirements established in Section VI.E.11 of this Notice.
- Be converted to permanent housing as defined in Subtitle C of title IV of the McKinney-Vento Homeless Assistance Act (42 USC 11381 et seq.) according to requirements of this Notice and 24 CFR part 578.

1. **Admission and Occupancy**: HOME-ARP NCS units may only be occupied by individuals or families that meet the criteria for one or more of the qualifying populations as defined in Section IV.A. of this Notice. Where applicable, occupancy of NCS units by qualifying populations must be in accordance with the requirements in Section IV.C of this Notice. The PJ must not allow qualifying populations to be charged occupancy fees or other charges to occupy a HOME-ARP NCS unit unless the PJ determines such fees and charges to be customary and reasonable and the charges comply with 24 CFR 578.77(b).

   To ensure that access to HOME-ARP NCS by qualifying populations is effectively integrated with other assistance and services, PJs are encouraged to incorporate each HOME-ARP NCS into the CE established by the CoC(s) for the area the NCS is funded to serve, provided that the CE is used in accordance with Section IV.C of this Notice. Whether or not packaged with NCS funding, HOME-ARP supportive services may also be provided as needed to qualifying individuals and families served by the HOME-ARP NCS in accordance with the requirements contained in Section VI.D of this Notice.

   No individual or family may be denied admission to or removed from a HOME-ARP NCS unit on the basis or as a direct result of the fact that the individual or family is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking if the individual or family meets the criteria of one of the qualifying populations.

2. **Eligible Activities**: HOME-ARP funds may be used to acquire and/or rehabilitate or construct HOME-ARP NCS units to serve qualifying populations. Acquisition of vacant land or demolition of existing structures may be undertaken only as part of a HOME-ARP NCS project. HOME-ARP NCS units acquired and/or developed with HOME-ARP funds must meet the requirements of this Notice, i.e., be used as HOME-ARP NCS or used as emergency shelter under ESG for the restricted use period established in Section VI.E.9 of this Notice.

3. **Eligible Costs**: HOME-ARP funds may be used for actual costs of acquiring NCS or developing HOME-ARP NCS as follows:

a. *Acquisition Costs*: Costs to acquire improved or unimproved real property.

b. *Demolition Costs*: Costs of demolishing existing structures for the purpose of developing HOME-ARP NCS.

c. *Development Hard Costs*: Costs identified in 24 CFR 92.206(a) to rehabilitate or construct HOME-ARP NCS units, except costs must be for meeting the physical standards established in Section VI.E.7 of this Notice.

d. *Site Improvements*: Costs to make improvements to the project site, including installation of utilities or utility connections, and the construction or rehabilitation of laundry, community facilities, on-site management, or supportive service offices.

e. *Related Soft Costs*: Reasonable and necessary costs incurred by the PJ and owner associated with the financing, acquisition, and development of HOME-ARP NCS projects, including costs identified in 24 CFR 92.206(d) with the following exceptions:

   i. Costs to provide information services such as affirmative marketing to prospective homeowners and tenants are not eligible.

   ii. Costs of funding an initial operating deficit reserve are not eligible.

   iii. Costs of project-specific assistance to community housing development organizations, including technical assistance and site control loans or seed money loans as specified in 24 CFR 92.301 are not eligible.

f. *Replacement Reserve*: Costs to capitalize a replacement reserve to pay the reasonable and necessary costs of replacing major systems and their components whose useful life will end during the restricted use period. Major systems include structural support, roofing, cladding, and weatherproofing, plumbing, electrical and HVAC. The costs of replacing major systems must be determined through a Capital Needs Assessment or documented in writing after an inspection by the PJ or PJ-selected contractor to assess the remaining useful life of major systems expected upon completion of the HOME-ARP NCS project. The costs of a replacement reserve must be included in the project budget in the written agreement along with a list of major systems to be replaced with the reserve and projected replacement schedule during the restricted use period (i.e., reserve for replacement analysis). Rehabilitation planned to be completed with HOME-ARP NCS reserve funds at a later date must be included in IDIS as a rehabilitation activity at initial commitment.

4. **Prohibited Costs**: HOME-ARP funds **may not** be used to:

   a. Pay any operating costs of a HOME-ARP NCS project.

   b. Provide additional HOME-ARP investment in a HOME-ARP NCS project during the restricted use period, except that additional HOME-ARP funds can be invested in the project up to one year after project completion in IDIS for eligible costs.

c. Pay costs of a conversion of HOME-ARP NCS as described in Section VI.E.11 of this Notice.

d. Provide non-Federal matching contributions required under any other Federal program.

e. Provide assistance for uses authorized under section 9 of the U.S. Housing Act of 1937 (42 U.S.C. 1437g) (Public Housing Capital and Operating Funds).

f. Provide assistance to eligible low-income housing under 24 CFR part 248 (Prepayment of Low-Income Housing Mortgages).

g. Pay for the acquisition of property owned by the PJ, except for property acquired by the PJ with HOME-ARP NCS funds, or property acquired in anticipation of carrying out a HOME-ARP NCS project.

h. Pay delinquent taxes, fees, or charges on properties to be assisted with HOME-ARP NCS funds.

i. Pay for any cost that is not eligible under this Notice.

5. **Commitment**: PJs must commit HOME-ARP funds before disbursing funds for a HOME-ARP NCS project. HOME-ARP funds are committed to a HOME-ARP NCS project when the PJ executes a legally binding written agreement that meets the requirements in this Notice.

   If the project is an acquisition-only activity, the PJ may commit HOME-ARP funds if it reasonably expects the project will be operated as HOME-ARP NCS within 6 months of the date of acquisition. Acquisition-only HOME-ARP NCS projects may be performed when the PJ reasonably determines that the units acquired will not require rehabilitation to meet the property standards in Section VI.E.7 of this Notice. If the project is not in active use as HOME-ARP NCS within 6 months of the acquisition, HUD may require the PJ to submit a schedule for placing the project into operation within a period determined by HUD or may require the PJ to repay the funds to its HOME-ARP Treasury Account.

   For projects that will involve rehabilitation or new construction with or without acquisition, the PJ may commit HOME-ARP funds if it reasonably expects development to begin within 12 months of the date of commitment.

6. **Project Development Due Diligence**: HOME-ARP NCS projects must meet the requirements of this Notice for the restricted use period. Consequently, before awarding HOME-ARP funds to a HOME-ARP NCS project, PJs must determine that acquisition and/or development is financially feasible. The PJ is responsible for maintaining continued operation of the NCS in accordance with this Notice throughout the restricted use period. Therefore, the PJ must consider whether the HOME-ARP NCS project has secured or has a high likelihood of securing operating funding because operating costs cannot be paid with HOME-ARP.

PJs must assess HOME-ARP NCS projects, including a review of information from the owner and/or developer that demonstrates the project's financial feasibility throughout the restricted use period. Before awarding funds for HOME-ARP NCS, the PJ must:

- Require that the developer submit evidence of appropriate skills and experience related to the development of shelters or similar facilities.
- Require the owner to submit evidence of prior experience with operating shelters.
- Require an acquisition or development budget, timeline, and sources and uses statement for the acquisition and/or development of the project be submitted for review.
- Require the owner to submit a proposed operating budget, including secured sources for operating costs and any operating gap that will require additional assistance. If there is a gap in the operating budget, the PJ should require the owner to submit a plan for securing additional private, local, state, or Federal funding sufficient for successful operation of the project.

Before committing funds, PJs should also determine whether the owner intends to continue operating the project as HOME-ARP NCS or emergency shelter NCS under ESG for the entire full restricted use period or plans to convert the HOME-ARP NCS to permanent affordable housing or CoC permanent housing during the restricted use period, once the minimum use period for HOME-ARP NCS established in this section is completed. If a HOME-ARP NCS project owner intends to convert the project to CoC permanent housing or permanent supportive housing during the restricted use period, the PJ is encouraged to pursue partnership and leveraging opportunities with the CoC early in the planning stage of a HOME-ARP NCS project. In such instances, the PJ should consider the physical design needs of an eventual conversion in its evaluation of the HOME-ARP NCS project.

7. **Property and Habitability Standards**: HOME-ARP NCS projects must meet the minimum HOME-ARP property standards prior to occupancy and the HOME-ARP NCS ongoing property standards throughout the restricted use period as described in this Notice. An "acquisition only" project must meet the HOME-ARP NCS minimum property standards described in paragraph a. below at the time of acquisition. If the project requires rehabilitation or repair to meet the minimum property standards, the project is considered acquisition and rehabilitation irrespective of the source of funds used for the rehabilitation or repair and must meet the NCS rehabilitation standards in paragraph b. below. In addition, PJs must meet the standards required in this Notice for rehabilitation or new construction, as applicable. The PJ must determine that construction contracts and documents describe the work to be completed in adequate detail to establish a basis for inspection to determine that all work was completed to contracted specifications and that the project met the HOME-ARP NCS property standards. Project classification as rehabilitation or new construction is determined by the PJs local code requirements based on specific work to be completed. PJs may also choose to adopt a standard that exceeds the minimum standards described here. The written agreement must impose the HOME-ARP NCS property standards or the PJ's locally developed standards and require that the PJ or its representatives have access to the property to perform inspections during development and throughout the restricted use period.

a. *Minimum HOME-ARP NCS Property Standards*: All HOME-ARP NCS units and common areas must meet all applicable State and local codes, ordinances, and requirements and the applicable provisions of HUD's Lead Safe Housing Rules at 24 CFR Part 35. In addition, all HOME-ARP NCS projects must meet the following minimum safety, sanitation, accessibility, and privacy standards:
   i. Must be structurally sound to protect occupants from the elements and not pose any threat to health and safety of the occupants.
   ii. Must be accessible in accordance with section 504 of the Rehabilitation Act (29 U.S.C. 794) and implementing regulations at 24 CFR part 8; the Fair Housing Act (42 U.S.C. 3601 *et seq.*) and implementing regulations at 24 CFR part 100; and Title II of the Americans with Disabilities Act (42 U.S.C. 12131 *et seq.*) and implementing regulations at 24 CFR part 35, all as applicable.
   iii. Must provide each individual or family with an acceptable, individual room to sleep which includes adequate space and security for themselves and their belongings.
   iv. Must have a natural or mechanical means of ventilation. The interior air must be free of pollutants at a level that might threaten or harm the health of occupants.
   v. Must have a water supply free of contamination.
   vi. Must have in-unit sanitary facilities that are in proper operating condition and are adequate for personal cleanliness and the disposal of human waste.
   vii. Must provide necessary heating/cooling facilities in proper operating condition.
   viii. Must have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There must be sufficient electrical sources to permit the safe use of electrical appliances.
   ix. Food preparation areas, if any, must contain suitable space and equipment to store, prepare, and serve food in a safe and sanitary manner.
   x. Must provide one working smoke detector and one working carbon monoxide detector in each unit. All smoke and carbon monoxide detectors and alarm systems must be designed for hearing-impaired residents. All public areas of the shelter must have at least one working smoke detector and one carbon monoxide detector. There must also be a second means of exiting the building in the event of fire or other emergency.

Minimum HOME-ARP NCS Rehabilitation Standards: HOME-ARP NCS rehabilitation projects must meet all applicable State and local codes, ordinances, and requirements , or in the absence of such codes, International Residential Code or the International Building Code (as applicable), and must comply with the Lead Safe Housing Rule at 24 CFR Part 35. Additionally, PJs must consider the remaining useful life of major systems. PJs are encouraged to use a Capital Needs Assessment to determine the reasonable and necessary investment of HOME-ARP funding in rehabilitation projects and expected cost of ongoing replacement needs during the restricted use period. If HOME-ARP funding will capitalize a replacement reserve, the PJ must determine the remaining useful life of major systems through a Capital Needs Assessment or other PJ inspection documented in writing, in accordance with requirements for capitalized replacement reserve costs in VI.E.3.

Minimum HOME-ARP NCS New Construction Standards: HOME-ARP NCS projects that are newly constructed must meet all applicable State and local codes, ordinances, and requirements, or in the absence of such codes, the International Residential Code or the International Building Code (as applicable to the type of structure). HOME-ARP funds cannot be used to fund a replacement reserve for newly constructed HOME-ARP NCS.

b. *On-going Property Standards and Inspections*: PJs must develop ongoing inspection procedures to verify that HOME-ARP NCS projects meet the minimum HOME-ARP NCS property standards established in this Notice throughout the restricted use period. A PJ's inspection procedures must require annual inspections that are applied consistently to all HOME-ARP NCS projects. When deficiencies are identified, a follow-up inspection to verify that deficiencies are corrected must occur within 6 months. The PJ may establish a list of non-hazardous deficiencies for which correction can be verified by third party documentation (e.g., paid invoice or work order) rather than reinspection. If life-threatening deficiencies exist, the owner or operator of the HOME-ARP NCS must correct such deficiencies immediately. In such instances, the PJ must re-inspect to verify the deficiency has been corrected within 14 days.

8. **Project Completion**: Project Completion for HOME-ARP NCS means:

   - All necessary title transfer requirements and construction work has been performed;
   - The project complies with the requirements of this Notice, including the HOME-ARP NCS property standards as evidenced by a final inspection;
   - The project is actively operating as a HOME-ARP NCS;
   - Final drawdown of HOME-ARP funds has been disbursed; and
   - Project completion information is entered into IDIS.

   All HOME-ARP NCS projects must be completed within 4 years of the date of commitment of the HOME-ARP funds based on the date of the last signature on the written agreement. If the PJ fails to complete a project within 4 years of project completion, it must comply with the terminated project requirements at 24 CFR 92.205(e)(2). HOME-ARP NCS rehabilitation and new construction projects must begin operating as active shelters within 6 months after the date of completion of the construction work. If the HOME-ARP NCS project is not in use within 6 months, HUD may require the PJ to submit a schedule for placing the project into operation as an active shelter within a period determined by HUD or may require the PJ to repay the HOME-ARP funds to its HOME-ARP Treasury Account.

9. **Restricted Use Period**: HOME-ARP NCS projects must comply with the requirements of this Notice for not less than the restricted use period specified in this Notice. PJs must impose the HOME-ARP NCS requirements through a deed restriction, covenant running with the land, legally binding agreement restricting the use of the property and recorded on the property in accordance with State recordation laws, or other mechanism approved by HUD. The use restriction should not identify that the property is prioritized for victims of domestic violence, dating violence, sexual assault, stalking or human trafficking. This use restriction must require that the property is operated as HOME-ARP NCS or non-congregate emergency shelter under ESG for the required restricted use period except that HOME-ARP

NCS projects may be converted to permanent affordable housing or CoC permanent housing after being operated as HOME-ARP NCS for the applicable minimum use period prior to conversion as described in Section VI.E.11. If the HOME-ARP NCS is converted, the PJ must amend its use restriction to reflect the change in requirements for the remainder of the restricted use period.

The restricted use period begins at project completion as defined in Section VI.E.8 of this Notice and must be imposed for at least the following periods:

a. *New Construction*: Newly constructed HOME-ARP NCS units must be operated as HOME-ARP NCS units for qualifying populations for a restricted use period of 15 years, regardless of the amount of HOME-ARP funds invested in the project.

b. *Rehabilitation*: HOME-ARP NCS units which receive any amount of HOME-ARP funds for rehabilitation but are not designated as new construction by the PJ's state or local building code requirements must be operated as HOME-ARP NCS units for qualifying populations for a restricted use period of 10 years.

c. *Acquisition Only*: Units acquired for use as HOME-ARP NCS that do not require rehabilitation for occupancy must serve the qualifying populations for a restricted use period of 10 years.

d. PJs may impose longer restricted use periods but must require the project remain financially viable for the extended period.

10. **Return of Replacement Reserve**: HOME-ARP funds may capitalize a replacement reserve for HOME-ARP NCS projects performing rehabilitation as described in Section VI.E.3 of this Notice. Any unexpended HOME-ARP funds remaining in a project's replacement reserve at the completion of the restricted use period or upon conversion must be used or returned as follows:

a. If the HOME-ARP NCS project will continue to operate in accordance with the HOME-ARP NCS requirements and serve qualifying households beyond the HOME-ARP NCS restricted use period demonstrated by enforceable restrictions imposed by the PJ in accordance with Section VI.E.9, the project can retain the replacement reserve to pay reasonable and necessary costs of replacing major systems and their components.

b. If the HOME-ARP NCS project will not continue to operate in accordance with the HOME-ARP NCS requirements because the NCS is being converted to either CoC permanent housing or permanent affordable housing as described in Section VI.E.11 of this Notice and the HOME-ARP grant is still open, the remaining HOME-ARP funds in the replacement reserve must be returned to the PJ's HOME Investment Trust Fund Treasury account.

c. If the HOME-ARP NCS grant has expired or is closed out, any remaining HOME-ARP funds in the replacement reserve must be deposited in the PJ's local HOME account,

recorded as a program income receipt in IDIS and used for eligible costs under 24 CFR part 92.

11. **Conversion of Non-Congregate Shelter to Rental Housing**: The ARP authorizes the conversion of HOME-ARP NCS units into permanent housing under subtitle C of title IV of McKinney-Vento or permanent affordable housing as described in this section, during the restricted use period. No HOME-ARP funds may be used for conversion. The written agreement between the PJ and the owner of the HOME-ARP NCS project must describe conversion as a possible outcome of the HOME-ARP NCS project; specify the conditions under which conversion will be permitted; and require that the PJ approve any conversion in advance.

    a. *Minimum Use Period*: All HOME-ARP NCS projects must be operated as NCS for a minimum period of time prior to conversion. The minimum use period prior to conversion varies based on the original HOME-ARP NCS eligible activity undertaken and the amount of funds invested in the project. If the HOME-ARP NCS project involves rehabilitation, the minimum use period prior to conversion is based on the total cost of the rehabilitation as a percentage of the total appraised value of the improved property. A larger investment for rehabilitation will require operation as HOME-ARP NCS for a longer minimum use period prior to conversion.
        i. Acquisition Only: HOME-ARP NCS activities not requiring rehabilitation for occupancy must be operated as HOME-ARP NCS for no less than 3 years from project completion prior to conversion.
        ii. Moderate Rehabilitation: Occurs when an NCS HOME-ARP project requires rehabilitation and the total rehabilitation expenditure from all sources of less than 75 percent of the total appraised value of the improved property. HOME-ARP NCS projects that receive moderate rehabilitation must be operated as HOME-ARP NCS for no less than 5 years from project completion prior to conversion.
        iii. Substantial Rehabilitation: Occurs when an NCS HOME-ARP project requires rehabilitation and the total rehabilitation expenditure from all sources exceeds 75 percent of the total appraised value of the improved property. HOME-ARP NCS projects that receive substantial rehabilitation must be operated as HOME-ARP NCS for no less than 10 years from project completion before conversion.
        iv. New Construction: Any HOME-ARP NCS project defined by the PJ's state or local code requirements as new construction must be operated as HOME-ARP NCS for no less than 10 years from project completion prior to conversion.

    Requirements for conversions vary depending on the type of conversion, as follows:

    b. *Permanent Affordable Housing*: During the HOME-ARP NCS restricted use period but only after the HOME-ARP NCS minimum use period, a PJ may provide written approval to convert the project from HOME-ARP NCS to permanent affordable housing (e.g., affordable multifamily rental housing, transitional housing) in accordance with the requirements prescribed in the PJ's written agreement with the HOME-ARP NCS owner.

The converted permanent affordable housing project must meet the following requirements:

i. Additional HOME-ARP Investment: The PJ is prohibited from investing additional HOME-ARP funds to pay for the cost of converting the project from HOME-ARP NCS to permanent affordable housing or to pay for operating the project as permanent affordable housing. However, the PJ must determine that adequate financial resources are committed to the project to bring it into compliance with the property standards of Section VI.B.11 of this Notice and maintain the financial feasibility of the project to be operated as permanent affordable housing for the qualifying populations throughout the remaining restricted use period. If permitting conversion of HOME-ARP NCS into permanent affordable housing, a PJ must develop and evaluate the project in accordance with standardized underwriting guidelines for conversion. At minimum, the PJ's underwriting guidelines for conversion must include an examination of the sources and uses of funds for the conversion and a careful review of the project's operating budget, including the assumptions, projections, and reasonably expected increases in expenses throughout the minimum compliance period defined in the section below, to determine that the project will remain financially feasible to serve the qualifying populations for the remainder of the restricted use period.

   The PJ may assist households living in affordable rental housing units in converted projects by providing HOME-ARP TBRA in accordance with Section VI.C of this Notice or financial assistance services in accordance with Section VI.D.4.c.i.R.

ii. Minimum Compliance Period: The minimum compliance period for converted housing is the period that the housing must continue to comply with the requirements of this Notice and is equal to the balance of the HOME-ARP NCS restricted use period. A PJ may impose a longer compliance period but should plan for the project's financial feasibility for the longer period. The PJ may not use HOME-ARP funds to provide operating assistance, including a capitalized operating reserve, to cover deficits during the minimum or an extended compliance period.

   The PJ must amend the use restriction for HOME-ARP NCS to reflect the conversion to permanent affordable housing. The provisions for imposing affordability requirements at 24 CFR 92.252(e)(1) through (e)(4) apply to the amended use restriction. In addition, the amended use restriction for the permanent affordable housing must be enforceable to maintain compliance with the requirements of this Notice for the minimum compliance period, including the following:

   (1) The same number of units that were operated as HOME-ARP NCS for qualifying populations must be restricted for and must be occupied by households that meet the definition of a qualifying population at the time of initial occupancy of the permanent affordable housing. The household's contribution toward rent during this period must be affordable in accordance with Section VI.E.11 of this Notice.

(2) The units must comply with the ongoing property condition standards of 24 CFR 92.251(f) throughout the minimum compliance period as demonstrated by an on-site inspection within 12 months of project completion and an on-site inspection at least once every three years thereafter as required by 24 CFR 92.504(d)(ii).
(3) Each household that occupies a HOME-ARP assisted rental unit must have an executed lease that complies with the tenant protections required in Section VI.B.18 of this Notice.

iii. Property Standards:. For the remaining restricted use period, the PJ must require that project owners maintain the housing as decent, safe and sanitary housing in good repair in accordance with the ongoing property condition standards of 24 CFR 92.251(f) as demonstrated by an on-site inspection at least once every three years in accordance with 24 CFR 92.504(d)(ii).

iv. Tenant Contribution to Rent: The PJ must confirm that the qualifying household's contribution to rent is affordable to the household based on a determination of the household's income. If the household is receiving project-based or tenant-based rental assistance, it cannot contribute towards rent more than is permitted in accordance with the requirements of the applicable program. If a qualifying household cannot contribute to rent, or the contribution is insufficient to cover the unit rent, the PJ may provide HOME-ARP TBRA or supportive services to assist the qualifying household but may not provide operating cost assistance or fund an operating cost assistance reserve.

v. Tenant Protections: Following conversion, each qualifying household that occupies a permanent affordable housing unit must have an executed lease or sublease that complies with the tenant protections requirements of this Notice.

(1) *Lease Requirement*: There must be a lease between the qualifying household and the owner of the permanent affordable housing project or, if there is a sublease with a qualifying household, a lease between a HOME-ARP sponsor and the owner in accordance with 24 CFR 92.253(a).
(2) *Prohibited Lease Terms*: The lease between the qualifying household and the owner, lease between HOME-ARP sponsor and the owner, and sublease between a HOME-ARP sponsor and qualifying household may not contain any of the prohibited lease terms specified in 24 CFR 92.253(b).
(3) *Termination of tenancy*: An owner may not terminate the tenancy or refuse to renew the lease of a qualifying household (or of a HOME-ARP sponsor with a sublease with a qualifying household) in a permanent affordable housing unit except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local laws, or for other good cause. An increase in the qualifying household's income does not constitute good cause.

To terminate or refuse to renew tenancy, the owner must serve written notice upon the qualifying household and the HOME-ARP sponsor if the lease is between an owner and HOME-ARP sponsor, specifying the grounds for the action at least 30 days before termination of tenancy. In the case of a sublease, to terminate or refuse to renew tenancy of a qualifying household, the HOME-ARP sponsor, in accordance with the policy established by the PJ, must notify the PJ in advance of serving written notice to the qualifying household and must serve written notice upon the qualifying household at least 30 days before termination of tenancy, specifying the grounds for the action.

vi. Coordinated Entry and Project-Specific Waitlists: On a project-by-project basis, the PJ must use the method of tenant selection in Section VI.B.19 of this Notice to select qualifying households for occupancy of permanent affordable housing.

vii. Penalties for Noncompliance: The PJ must repay HOME-ARP funds invested in HOME-ARP NCS that was converted to permanent affordable housing if the permanent affordable housing does not comply with initial or ongoing requirements of this Notice during the compliance period.

c. *CoC Permanent Housing*: During the HOME-ARP NCS restricted use period but only after the HOME-ARP NCS minimum use period, a PJ may permit the conversion of a HOME-ARP NCS project to permanent housing or permanent supportive housing under 24 CFR 578.43 (acquisition) and/or 24 CFR 578.45 (rehabilitation) of the CoC program regulations. Conversions may only occur in accordance with the requirements prescribed in the PJ's written agreement with the HOME-ARP NCS owner. If conversion is approved by the PJ, the HOME-ARP NCS use restrictions must remain in place until the project is approved for CoC funding and the required CoC restrictions are imposed on the property.

Conversion to CoC permanent housing or permanent supportive housing may serve the following eligible households as defined in 24 CFR 578.3, subject to any further eligibility conditions that may apply to the use of CoC Program funds to provide rental assistance in the housing or otherwise support the project:

- Chronically homeless individuals
- Homeless individuals or families

PJs are prohibited from investing additional HOME-ARP funds to pay for the cost of converting the project to CoC permanent housing or permanent supportive housing. The CoC designates eligible applicants for grant funds under 24 CFR Part 578, which includes nonprofit organizations, States, local governments, and instrumentalities of State or local governments. For-profit entities are not eligible to apply for CoC grants or to be subrecipients of grant funds. Consequently, if a HOME-ARP NCS project owner intends to convert the project to CoC permanent housing or permanent supportive housing during the restricted use period, the PJ is encouraged to pursue partnership and leveraging opportunities with the CoC early in the planning stage of a HOME-ARP NCS

project. Additionally, PJs may provide supportive services or HOME-ARP TBRA to qualifying households that must move because of the conversion. (See Section VII.F.4.b for more information on relocations involving shelter occupants).

F. Nonprofit Operating and Capacity Building Assistance

A PJ may use up to 5 percent of its HOME-ARP allocation to pay operating expenses of CHDOs and other nonprofit organizations that will carry out activities with HOME-ARP funds. A PJ may also use up to an additional 5 percent of its allocation to pay eligible costs related to developing the capacity of eligible nonprofit organizations to successfully carry out HOME-ARP eligible activities.

PJs may award operating expense assistance or capacity building assistance to a nonprofit organization if it reasonably expects to provide HOME-ARP funds to the organization for any of the eligible HOME-ARP activities within 24 months of the award.

1. Eligible Costs

a. *Operating Expense Assistance*: Operating expenses are defined as reasonable and necessary costs of operating the nonprofit organization. These costs include employee salaries, wages and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; equipment, materials, and supplies.

HOME-ARP funds used for operating expenses must be used for the "**general operating costs**" of the nonprofit organization. These operating costs must not have a particular final cost objective, such as a project or activity, or must not be directly assignable to a HOME-ARP activity or project. For example, HOME-ARP funds for operating expenses may ***not*** be used for staffing costs to provide supportive services or develop HOME-ARP-rental housing (as operating costs to develop HOME-ARP rental housing are paid for by a developer fee which is a project delivery or soft cost). Because ARP does not permit any HOME-ARP funds to be used to operate a shelter, all costs related to operating a non-congregate shelter (e.g., allocable overhead and staffing costs, insurance, utilities) also cannot be paid with HOME-ARP funds.

The actual costs of implementing a specific activity or project, including staff costs to deliver supportive services or administer HOME-ARP TBRA, are considered HOME-ARP project delivery costs or project soft costs and are not eligible costs under Nonprofit Operating and Capacity Building Assistance. HOME-ARP project delivery costs are those allowable costs incurred for implementing and carrying out eligible HOME-ARP projects or activities, such as supportive services. All project delivery costs are allocable to a HOME-ARP project, including direct project and related delivery costs integral to developing the project or providing the activity. HOME-ARP project delivery costs may be paid, if eligible, by HOME-ARP funds provided under a written agreement for the activity or project and must not be paid with nonprofit operating expense or capacity building assistance.

b. *Capacity Building Assistance*: Capacity building expenses are defined as reasonable and necessary general operating costs that will result in expansion or improvement of an organization's ability to successfully carry out eligible HOME-ARP activities. Eligible costs include salaries for new hires including wages and other employee compensation and benefits; costs related to employee training or other staff development that enhances an employee's skill set and expertise; equipment (e.g., computer software or programs that improve organizational processes), upgrades to materials and equipment, and supplies; and contracts for technical assistance or for consultants with expertise related to the HOME-ARP qualifying populations.

2. **Limitations on Assistance**: NAHA and the HOME regulations limit the amount of operating expense assistance that an organization can receive annually. ARP extends this limitation to the capacity building assistance paid with HOME-ARP funds.

   In any fiscal year, operating assistance provided to a nonprofit organization may not exceed the greater of 50 percent of the general operating expenses of the organization, as described above, for that fiscal year or $50,000.

   In any fiscal year, capacity building assistance provided to a nonprofit organization may not exceed the greater of 50 percent of the general operating expenses of the organization, as described above, or $50,000.

   If an organization receives both operating assistance and capacity building assistance in any fiscal year, the aggregate total amount of assistance it may receive is the greater of 50 percent of the organization's total operating expenses for that fiscal year or $75,000.

   To implement the above limitations on assistance, HUD has established separate fund types in IDIS for operating expense assistance and capacity building assistance. This will facilitate accurate tracking and ensure that PJs do not exceed the limits established in NAHA and ARP.

3. **Commitment of Operating Expense and Capacity Building Assistance**: A PJ commits operating expense assistance or capacity building assistance when it enters into a legally binding agreement with the nonprofit organization to provide the assistance.

VII. OTHER FEDERAL REQUIREMENTS

HOME-ARP funds are federal financial assistance and, therefore, are subject to requirements applicable to such funds. PJs must comply with the following requirements: 24 CFR part 92, subpart H, 92.352 – Environmental review; 92.353 – Displacement, relocation, and acquisition; and 92.355 – Lead-based paint.

A. Other Federal Requirements and Nondiscrimination

The requirements in 24 CFR 92.350 apply to the HOME-ARP program. PJs must comply with the Federal requirements set forth in 24 CFR part 5, subpart A, including: nondiscrimination and equal opportunity; disclosure requirements; debarred, suspended or ineligible contractors; drug-free work; and housing counseling and the nondiscrimination requirements at section 282 of NAHA. The requirements in section 282 of NAHA are waived in connection with the use of HOME-ARP funds on lands set aside under the Hawaiian Homes Commission Act, 1920 (42 Stat. 108). PJs must also comply with the Violence Against Women Act (VAWA) requirements set forth in 24 CFR 92.359.

B. Affirmative Marketing and Minority Outreach

The requirements in 24 CFR 92.351 apply to HOME-ARP activities.

C. National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321) and Related Laws

The environmental requirements in 24 CFR 92.352 apply to eligible activities under this Notice. The environmental effects of each activity carried out with HOME-ARP funds must be assessed in accordance with the provisions of NEPA and the related authorities listed in HUD's implementing regulations at 24 CFR part 58. The applicability of the provisions of 24 CFR part 58 is based on the HOME-ARP project as a whole (i.e., all individual project activities, such as acquisition and rehabilitation, aggregated according to the requirements at 24 CFR 58.32), not on the type of the cost paid with HOME-ARP funds. In accordance with the provisions in 24 CFR part 58, activities undertaken with HOME-ARP funds are subject to environmental review by a PJ or State recipient. The PJ or State recipient (referred to as the "Responsible Entity" or "RE") must assume responsibility for environmental review, decision making, and action for each activity that it carries out with HOME-ARP funds, in accordance with the requirements at 24 CFR Part 58. A state PJ must assume responsibility for approval of Requests for Release of Funds and Certification (RROF/C) submitted by State recipients.

No funds may be committed to a HOME-ARP activity or project before the completion of the environmental review and approval of the RROF/C, as applicable. Neither a HOME-ARP recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance on an activity or project until the environmental review has been completed and HUD or the state has approved the recipient's RROF/C from the RE as applicable. In addition, until the RROF/C have been approved, neither a HOME-ARP recipient nor any participant in the development process may commit non-HUD funds on or undertake a HOME-ARP activity or project if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives. Therefore, it is important for REs to begin and complete any required environmental reviews as soon as possible.

1. HOME-ARP TBRA and Supportive Services

HOME-ARP TBRA and supportive services as defined at 24 CFR 58.35(b) are categorically excluded, not subject to the Federal laws and authorities at 24 CFR 58.5 (CENST) or exempt from review under NEPA. A RE may complete a single CENST review categorized under 24 CFR 58.35(b) for their supportive services program or their HOME-ARP TBRA program where participants choose their own unit and are not restricted to units within a pre-determined specific project site or sites. There is no need to complete reviews for every unit selected by participants.

2. HOME-ARP Rental Housing

Acquisition of a structure to be used as HOME-ARP rental housing is categorically excluded, subject to the Federal laws and authorities referenced at 24 CFR 58.5 (CEST) under 24 CFR 58.35(a)(5) (with the possibility of converting to exempt under 24 CFR 58.34(a)(12)) if the structure acquired will be retained for the same use (e.g., residential). Rehabilitation of buildings for residential use with one to four units for HOME-ARP rental housing is CEST under 24 CFR 58.35(a)(3)(i), if the density is not increased beyond four units, and the land use is not changed. Rehabilitation of buildings for use as HOME-ARP multifamily rental housing is CEST under 24 CFR 58.35(a)(3)(ii) only if:

1. the unit density is not changed more than 20 percent;
2. the project does not involve changes in land use from residential to non-residential; and
3. the estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

Rehabilitation for HOME-ARP rental housing that does not meet the thresholds for multifamily residential buildings listed above requires completion of an Environmental Assessment in accordance with 24 CFR Part 58, Subpart E. An Environmental Assessment is also required for new construction, demolition, acquisition of vacant land for new construction, and acquisition of non-residential structures for demolition and new construction.

3. HOME-ARP NCS

HOME-ARP NCS activities are subject to environmental review by the RE under 24 CFR part 58. Acquisition of a structure to be used as HOME-ARP NCS is CEST under 24 CFR 58.35(a)(5) (with the possibility of converting to exempt under 24 CFR 58.34(a)(12)) if the structure acquired will be retained for the same use (e.g., residential). Rehabilitation of a structure for HOME-ARP NCS is CEST if the project meets the thresholds listed at 24 CFR 58.35(a)(3)(i) or (ii). Rehabilitation that does not meet these thresholds requires completion of an Environmental Assessment pursuant to 24 CFR part 58, subpart E. An Environmental Assessment is also required for new construction, demolition, acquisition of vacant land for new construction, and acquisition of non-residential structures for demolition and new construction.

HOME-ARP NCS projects which may convert to emergency shelter or permanent housing pursuant to Sec. 3204(a)(4)(B) or (C) of the ARP may complete a single environmental review that covers all proposed HUD funding sources and project activities. Conversion to a program using project-based rental assistance is CEST and requires completion of an environmental review. If conversion or other additional HUD funding sources are proposed after the

environmental review has been completed, a CENST review for supplemental assistance under 24 CFR 58.35(b)(7) can be performed if the review is completed by the same RE that conducted the original review and if re-evaluation is not required by 24 CFR 58.47.

The PJ or subrecipient, or any contractor of the PJ or subrecipient, may not acquire, rehabilitate, convert, repair, dispose of, demolish, or construct property for a HOME-ARP NCS project, or commit or expend HUD or non-HUD funds for NCS under HOME-ARP, until the RE has completed an environmental review under 24 CFR part 58 and received HUD or state approval of the RROF/C, as applicable.

D. Labor Standards

The requirements in 24 CFR 92.354 apply to HOME-ARP activities.

E. Lead Hazard Control Requirements

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR Part 35, subparts A, B, J, K, M, and R apply to HOME-ARP-assisted activities.

For HOME-ARP NCS, a project must comply with 24 CFR part 35, Subpart K when the HOME-ARP activity is acquisition only. HOME-ARP NCS projects that involve rehabilitation of pre-1978 facilities, whether the rehabilitation is funded with HOME-ARP or other funds, must comply with the requirements of 24 CFR part 35, Subpart J.

F. Uniform Relocation Assistance and Real Property Acquisition Policies Act, Section 104(d), and HOME-ARP Displacement, Relocation and Acquisition Program Requirements

HOME-ARP funding is subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and section 104(d) of the Housing and Community Development Act of 1974, in addition to the Displacement, Relocation and Acquisition regulatory requirements of 24 CFR 92.353. This Notice also includes HOME-ARP program specific relocation requirements applicable to HOME-ARP-assisted projects. PJs must comply with all applicable requirements, as described in this section.

1. **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**: Costs incurred to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. § 4601 *et seq.*) (URA) are eligible HOME-ARP project costs pursuant to this Notice and 24 CFR 92.206(f). The URA establishes minimum requirements for the acquisition of real property and the displacement of persons from their homes, businesses, or farms as a direct result of acquisition, rehabilitation, or demolition for federally-assisted programs and projects. The URA implementing regulations at 49 CFR part 24 establish:

- Requirements for the provision of replacement housing assistance, advisory services, and moving costs to persons displaced as a result of a program or project that receives federal financial assistance;
- Requirements for acquisitions, including the payment of just compensation pursuant to 49 CFR part 24, subpart B, and provisions for voluntary acquisitions set forth in 49 CFR 24.101.
- Minimum requirements for temporary relocation of persons, businesses, or farms as a result of a project or program that receives federal financial assistance. These requirements are found in Appendix A, Section 24.2(a)(9)(ii)(D).

Additional HUD URA policy and guidance is available in HUD Handbook 1378.

2. **Section 104(d) of the Housing and Community Development Act of 1974**: HOME-ARP is HOME funding and subject to the requirements in section 104(d) of the Housing and Community Development Act of 1974, as amended, (42 USC § 5304(d)), ("section 104(d)") unless waived, as described in this section and Appendix. Costs incurred to comply with section 104(d) requirements are eligible HOME-ARP project costs under 24 CFR 92.206(f). section 104(d) applies to the demolition or conversion, as defined in 24 CFR 42.305, of a lower-income dwelling unit in connection with a HOME or Community Development Block Grant Program (CDBG) assisted activity. section 104(d) includes the following requirements:

   - A PJ must have a residential anti-displacement and relocation assistance plan (RARAP);
   - A PJ must provide relocation assistance to displaced lower-income persons; and
   - A PJ must perform one-for-one replacement of lower-income dwellings demolished or converted to a use other than a lower-income dwelling unit. A lower-income dwelling unit is defined in 24 CFR 42.305 as a dwelling unit with a market rent (including utility costs) that does not exceed the applicable Fair Market Rent (FMR) for existing housing, as defined by HUD.

   Section 104(d) implementing federal regulations can be found at 24 CFR part 42 Subpart C.

   HOME-ARP Section 104(d) Waiver / One-for-One Replacement Housing.
   For purposes of , the one-for-one replacement housing requirements of section 104(d)(2)(A)(i) and (ii) and (d)(3) (42 U.S.C. 5304(d)(2)(A)(i) and (ii) and 42 U.S.C. 5304(d)(3)) and 24 CFR 42.375, lower-income dwelling units shall not include single-room occupancy (SRO) units or residential hotel or motel units in jurisdictions where those units are considered dwelling units under state or local law. All other section 104(d) requirements, including but not limited to the requirement that the PJ have and follow a RARAP, remain in effect. (See 24 CFR 92.353(e) and 24 CFR part 42, subpart C).

3. **HOME Program Displacement, Relocation and Acquisition Regulations**: In addition to the URA and section 104(d) requirement described above, the HOME program's Displacement, Relocation and Acquisition regulations at 24 CFR 92.353 also apply to projects funded with HOME-ARP funds. Some of these requirements differ from those

of the URA and section 104(d), including but not limited to the expanded temporary relocation protections at 24 CFR 92.353(b) and (c); optional relocation assistance policies in 24 CFR 92.353(d); and the right to return to a building or complex, if feasible, upon completion of a HOME project, in accordance with 24 CFR 92.353(a). PJs must follow these program-specific requirements in HOME-ARP assisted projects.

PJs are encouraged to develop optional relocation policies to address individuals that may not be eligible for URA or section 104(d) assistance due to their length of occupancy in a unit, ineligibility of their dwelling unit, or other factors beyond their control. Such policies must be in writing, applied consistently, and must not violate any other federal law or regulation. Costs incurred to comply with 24 CFR 92.353, including optional relocation policies, are eligible HOME-ARP project costs under 24 CFR 92.206(f).

4. **Additional HOME-ARP Program Relocation Related Requirements**: The following additional HOME-ARP program relocation requirements apply:

   a. *Acquisition and/or rehabilitation of hotels, motels and other non-residential property*: In states where hotels and motels are not considered dwelling units or residential property, the acquisition of non-residential property such as hotels and motels for the production of HOME-ARP NCS units or HOME-ARP rental housing will not make a person occupying those properties eligible for relocation assistance under the URA, section 104(d) or 24 CFR 92.353. HOME PJs may provide HOME-ARP assistance, as defined by this Notice, including the provision of HOME-ARP supportive services, HOME-ARP TBRA, the ability to stay in HOME-ARP NCS units, or the ability to rent a HOME-ARP rental unit, if the individuals or families can demonstrate that–

      i. they have been in continuous residence at the property for 30 or more calendar days, and
      ii. they are a qualifying household, as defined by this Notice.

      Any assistance provided pursuant to this section may be provided without regard to any preferences, project-specific waiting lists, or any other form of prioritization the PJ has developed pursuant to this Notice. For purposes of HOME-ARP, costs associated with activities under this provision of the Notice may be charged as either project delivery costs or relocation costs eligible under 24 CFR 92.206(f).

   b. *Conversion of HOME-ARP NCS*: If HOME-ARP NCS units are occupied and converted to either permanent housing under CoC or permanent affordable housing as described in Section VI.E.11 of this Notice, persons occupying the shelter would not normally be eligible for relocation assistance under the URA, section 104(d) or 24 CFR 92.353 because they are not displaced from a dwelling unit. However, since the individuals or families occupying such shelter units are already qualifying households under HOME-ARP, HOME PJs may immediately provide such occupants with HOME-ARP assistance, as defined by this Notice, including the provision of HOME-ARP supportive services, HOME-ARP TBRA, the ability to stay in other HOME-ARP

NCS units, or the ability to rent a HOME-ARP rental unit. Additionally, the PJ may provide the occupants with assistance for moving costs or advisory services, as appropriate, as HOME-ARP administrative costs or under the HOME-ARP supportive services activity in Section VI.D of this Notice. Any assistance provided pursuant to this section may be provided without regard to any preferences, project-specific waiting lists, or any other form of prioritization the PJ has developed pursuant to this Notice, as the persons occupying the NCS units were already determined to be qualifying households under the HOME-ARP.

5. **Persons Ineligible for HOME-ARP Assistance and Ineligible for URA, Section 104(d), or assistance pursuant to 24 CFR 92.353**: If a person is required to move as a direct result of a HOME-ARP project and is determined ineligible for HOME-ARP housing assistance under the preceding Section VII.F.4 and also determined ineligible as a displaced person under the URA, section 104(d) or HOME program rules, the PJ may provide such persons advisory services as an eligible HOME-ARP administrative cost, as the PJ determines to be reasonable and necessary.

G. Section 3 Economic Opportunities for Low- and Very Low-Income Persons

Section 3 requirements established at 24 CFR Part 75 apply to HOME-ARP-assisted projects.

H. Conflicts of Interest

HOME-ARP is subject to the following conflicts of interest requirements:

1. **Conflicts of Interest**: PJs, State recipients, and subrecipients engaging in any of the activities defined this Notice shall be subject to the conflicts of interest provisions at 24 CFR 92.356, including but not limited to the conflicts of interest exception process defined in 24 CFR 92.356(d)-(e). Owners and developers of HOME-ARP NCS and HOME-ARP rental housing shall be subject to 24 CFR 92.356(f).

2. **Organizational Conflicts of Interest**: The provision of any type or amount of HOME-ARP TBRA or supportive services may not be conditioned on an individual's or family's acceptance or occupancy of a shelter or housing unit owned by the PJ; State recipients; the subrecipient; or a parent, affiliate, or subsidiary of the subrecipient. No subrecipient may, with respect to individuals or families occupying housing owned by the subrecipient, or any parent, affiliate, or subsidiary of the subrecipient, administer financial assistance that includes rental payments, utility deposits, security deposits, or first and last month's rent provided pursuant to this Notice. All contractors of the PJ, State recipients, or subrecipient must comply with the same requirements that apply to subrecipients under this section.

3. **Written Standards of Conduct**: PJs, State recipients, and subrecipients must maintain written standards of conduct covering the conflicts of interest and organizational conflicts of interest requirements under this Notice and 2 CFR 200.318. The written standards of conduct must also provide for internal controls and procedures to require a fair and open selection process for awarding HOME-ARP funds pursuant to this Notice. These standards

must include provisions on if and how Continuum of Care board members may participate in and/or influence discussions or resulting decisions concerning the competition or selection of an award or other financial benefits made pursuant to the HOME-ARP Notice, including internal controls on when funds may be awarded to the organization that the member represents.

4. **Requesting Exceptions to Organizational Conflicts of Interest**: Any request for an exception to the organizational conflicts of interest provisions in this Notice shall be in writing and shall be considered by HUD only after the PJ or State recipient has provided the following:

   a. A written disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
   b. An opinion of the PJ's or State recipient's attorney that the interest for which the exception is sought would not violate State or local law.

5. **Granting Exceptions to Organizational Conflicts of Interest**: HUD shall determine whether to grant an exception to the organizational conflicts of interest on a case-by-case basis when it determines that the exception will serve to further the purposes of HOME-ARP. HUD shall consider the following factors, as applicable, in determining whether to grant such an exception:

   c. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available
   d. Whether undue hardship will result to the PJ, State recipient, subrecipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict;
   e. Whether conditioning approval on changes to the PJ, State recipient, or subrecipient's policies or procedures can adequately address the organizational conflict of interest; and
   f. Any other factors relevant to HUD's determination, including the timing of the requested exception.

VIII. PROGRAM ADMINISTRATION

A. PJ Responsibilities

The PJ is responsible for managing the day-to-day operations of its HOME-ARP program, ensuring that HOME-ARP funds are used in accordance with all program requirements and written agreements, and taking appropriate action when performance problems arise. The use of State recipients, subrecipients, or contractors does not relieve the PJ of this responsibility.

B. Written Agreement Requirements

Before disbursing any HOME-ARP funds to any entity, the PJ must enter into a written agreement with that entity pursuant to 24 CFR 92.504. Similarly, before disbursing any HOME

funds to a State recipient, subrecipient, or contractor which is administering all or a part of the HOME-ARP program on behalf of the PJ, the PJ must also enter into a written agreement with that entity that complies with 24 CFR 92.504 and the requirements described below. A written agreement cannot commit to providing HOME-ARP funds after the end of the HOME-ARP budget period.

The written agreement must require compliance with the requirements of this Notice. The content of the written agreement will vary depending upon the role the entity is asked to assume or the type of project undertaken.

This section details basic requirements by activity and the minimum provisions, in addition to those at 24 CFR 92.504 that must be included in a written agreement. The written agreement provisions in 24 CFR 92.504 that reference the requirements of 24 CFR 92.350, 24 CFR 92.351, and 24 CFR 92.359 are not waived and apply for all HOME-ARP written agreements.

1. **Rental Housing:** The PJ must execute a written agreement with the project owner/developer prior to the expenditure of HOME-ARP funds. The written agreement must comply with 24 CFR 92.504 and contain the following additional provisions:

   a. *Use of HOME-ARP funds for Rental Housing*: The agreement between the owner/developer must describe the address of the project or legal description of the property if a street address has not be assigned to the property, the use of the HOME-ARP funds and other funds for the project, including the tasks to be performed for the project, a schedule for completing the tasks and the project, and a complete budget, including any HOME-ARP funds used to capitalize an operating cost reserve for qualified HOME-ARP units. These items must be in sufficient detail to provide a sound basis for the PJ to effectively monitor performance under the agreement to achieve project completion and compliance with HOME-ARP requirements.

   b. *Operating Cost Assistance*: If the PJ will provide HOME-ARP funds for operating cost assistance, the agreement must specify whether the PJ will provide assistance through periodic payments or capitalize the operating cost assistance reserve based on the operating deficit projected for the 15-year compliance period. If the PJ is providing ongoing assistance, the amount of assistance must be based on the actual operating deficit associated with the HOME-ARP units restricted for occupancy by qualifying households. The written agreement must specify the frequency of operating assistance payments made to the owner (e.g., monthly, quarterly, etc.) and state that the amount of assistance will be equal to the deficit demonstrated and/or incurred. The written agreement may only provide for HOME-ARP funds to be used for operating assistance payments during the budget period defined in Section VIII.C.4 below. If operating cost assistance will be required beyond the budget period, the PJ should capitalize an operating reserve before the expiration of the budget period for HOME-ARP funds in accordance with Section VI.B.23. If the PJ is capitalizing the operating reserve for the 15-year HOME-ARP compliance period, the amount of assistance must be based on the project's underwriting and the total anticipated operating deficit associated with the HOME-ARP units restricted for occupancy by qualifying households. The written

agreement must specify the amount of the capitalized reserve and the restrictions on its use during the minimum compliance period in Section VI.B.18. Net operating income resulting from HOME-ARP operating cost assistance is not permitted and must be prohibited in the written agreement between the participating jurisdiction and the owner.

c. *Sublease/Master Lease of HOME-ARP Units*: If the PJ will permit a project owner to execute a sublease or master lease with a nonprofit organization for HOME-ARP units restricted for occupancy by qualifying households, the agreement must specify the duration of the sublease or master lease, applicable rents, lease requirements and tenant protections.

d. *On-going compliance*: The agreement must require rental housing assisted with HOME-ARP funds to comply with the on-going requirements of Section VI.B of this Notice or require repayment in accordance with Section VI.B.22.

e. *Property Standards*: The agreement must require the housing to meet the property standards required in 24 CFR 92.251 paragraphs (a) new construction, (b) rehabilitation projects, (c)(1) and (2) acquisition of standard housing and (f) on-going property condition standards.

f. *Records and reports*: The agreement must specify the particular records that must be maintained and the information or reports that must be submitted to assist the PJ in meeting its recordkeeping and reporting requirements. The owner/developer of rental housing must annually provide the PJ with information on rents and occupancy of HOME-ARP assisted units to demonstrate compliance with this Notice. If the rental project has floating HOME-ARP units, the project owner/developer must provide the PJ with information regarding unit substitution and filling vacancies so that the project remains in compliance with the HOME-ARP occupancy requirements. The agreement must specify the reporting requirements, (including copies of financial statements) to enable the PJ to determine the financial condition and continued financial viability of the project.

g. *Enforcement of the agreement*: The agreement must provide for a means for the PJ to enforce compliance with HOME-ARP requirements. This means of enforcement may include liens, deed restrictions, covenants running with the land, use restriction, or other mechanism approved by HUD under which the PJ has the right to require specific performance. In addition, the agreement must specify remedies for breach of the provisions of the agreement.

h. *Request for disbursement of funds*: The agreement must specify that the owner/developer may not request disbursement of funds under the agreement until the funds are needed for payment of eligible costs. The owner/developer may request capitalization of a project operating cost assistance reserve for the qualifying units once all necessary title transfer requirements and construction work have been performed. The amount of each request must be limited to eligible costs in the amount needed, as described in Section VI.B.5.g.

i. *Duration of the agreement*: The agreement must be in effect for at least the 15-year HOME-ARP minimum compliance period.

j. *On-site Inspections and Financial Oversight*: The PJ must comply with the on-site inspections and financial oversight requirements of 24 CFR 92.504(d)(1) and (2). In addition, if the PJ will permit the capitalization of a project operating cost assistance reserve, the PJ must, no less than annually, oversee the administration of the operating cost assistance reserve account to verify that the account is appropriately sized and draws from the account are used to cover any deficits associated with units occupied by qualifying households.

k. *Tenant Selection*: The written agreement must contain provisions explaining the method of tenant selection to be used in accordance with the requirements of Section IV.C and VI.B.20 of this Notice. This section must be in sufficient detail to determine which method of tenant selection is being used for the qualifying population (i.e., use of CE, use of CE with other referral methods, or project-specific waiting list), the method of tenant selection for low-income households (See Section VI.B.20.b and 24 CFR 92.253(d)), and any required policies and procedures around the use of a CE or project-specific waiting list. This section must also be in sufficient detail to determine compliance with the PJ's preferences and/or method of prioritization, if any, as well as all applicable fair housing, civil rights, and nondiscrimination requirements, including but not limited to those requirements listed in 24 CFR 5.105(a).

2. **TBRA (subrecipient or contractor):** The requirements at 24 CFR 92.504, apply to the use of HOME-ARP funds for TBRA. The written agreement provisions in 24 CFR 92.504 that reference the requirements of 24 CFR 92.350, 24 CFR 92.351, and 24 CFR 92.359 are not waived and still apply for HOME-ARP written agreements. The written agreement must contain the following provisions:

   a. *Use of HOME ARP funds*: At a minimum, the written agreement must describe the amount and use of the HOME-ARP funds, the tasks to be performed, or services to be provided. HOME-ARP funds cannot be provided after the end of the HOME-ARP budget period.

   b. *Records and reports*: The agreement must specify the particular records that must be maintained and the information or reports that must be submitted to assist the PJ in meeting its recordkeeping and reporting requirements.

   c. *Duration of agreement and disbursement of funds*: The agreement must specify the duration of the agreement and state that disbursement of funds under the agreement may not be requested until the funds are needed.

   d. *Compliance with HOME-ARP program requirements*: The written agreement must require compliance with HOME-ARP program requirements for the HOME-ARP TBRA activity as outlined in Section VI.C of this Notice.

e. *Rental assistance contract*: There must be a rental assistance contract between the PJ and either the HOME-ARP sponsor, the HOME-ARP TBRA assisted household, or the property owner. The PJ must determine the terms of the rental assistance contract. The rental assistance contract continues until the lease is terminated. If the rental assistance is being provided through a HOME-ARP sponsor, the PJ must determine the term of the rental assistance contract between the PJ and HOME-ARP sponsor.

If HOME-ARP TBRA is provided in coordination with a HOME-ARP sponsor, the PJ must enter into a written agreement with the HOME-ARP sponsor if the HOME-ARP TBRA rental assistance contract is not with the HOME-ARP sponsor and the HOME-ARP sponsor will be receiving the HOME-ARP TBRA subsidy directly from the PJ. The written agreement must specify the requirements for the HOME-ARP sponsor receiving the TBRA subsidy on behalf of the HOME-ARP TBRA household and the HOME-ARP sponsor's obligation to use the HOME-ARP TBRA payment to pay rent for the unit to the property owner or management agent. If HOME-ARP TBRA is provided in coordination with a HOME-ARP sponsor, the sponsor must enter into a sublease with the HOME-ARP TBRA assisted household that must specify the duration of the sublease, applicable rents, lease requirements and tenant protections, all in accordance with the requirements of this Notice.

f. *Tenant Selection*: The written agreement must require the owner to comply with the method of tenant selection determined by the PJ and applicable requirements of Section IV.C and VI.C.1 of this Notice. The written agreement must include a description of the required method of tenant selection for the qualifying populations (i.e., use of CE, use of CE with other referral methods, project-specific waiting list), the method of tenant selection for low-income households (See Section VI.B.20.b and 24 CFR 92.253(d)), and any required policies and procedures around the use of a CE or project-specific waiting list. This section of the written agreement must be in sufficient detail to determine compliance with the PJ's preferences and/or method of prioritization, if any, as well as all applicable fair housing, civil rights, and nondiscrimination requirements, including but not limited to those requirements listed in 24 CFR 5.105(a).

3. **Supportive Services (subrecipient or contractor)**: The requirements at 24 CFR 92.504, apply to the use of HOME-ARP funds for supportive services. The provisions of the written agreement will depend on the role the entity is asked to assume. At a minimum, the written agreement must contain the following provisions:

a. *Use of HOME funds*: The written agreement must describe the amount and uses of the HOME-ARP funds, the tasks to be performed, the services to be provided, and include a budget. The written agreement cannot agree to provide HOME-ARP funds after the end of the HOME-ARP budget period.

b. *Records and Reports*: The agreement must specify the particular records that must be maintained and the information or reports that must be submitted in order to assist the PJ in meeting its recordkeeping and reporting requirements as required under Section VIII.F of this Notice.

c. *Duration of the agreement and Disbursement of Funds*: The agreement must specify the duration of the agreement, and state that disbursement of funds under the agreement may not be requested until the funds are needed.

d. *Compliance with HOME-ARP Program Requirements*: The written agreement must also require compliance with HOME-ARP program requirements for the HOME-ARP supportive services activity as described in Section VI.D of this Notice.

4. **HOME-ARP Non-Congregate Shelter (owner/developer)**: Written agreements must be executed between the PJ and the owner for all HOME-ARP NCS projects. A legally binding HOME-ARP NCS written agreement must include the date of the signature of each person signing the agreement. PJs are responsible for entering into written agreements before disbursing HOME-ARP funding. Contents of written agreements can vary based on specific needs of the PJ, the owner, and the project. Agreements for the acquisition, development, and rehabilitation of HOME-ARP NCS units must contain the following provisions:

   a. *Use of HOME-ARP funds*: The agreement between the PJ and owner must include the address of the project or legal description of the property if a street address has not been assigned to the property, the use of the HOME-ARP NCS funds and other funds for the project, including the tasks to be performed for the project, a schedule for completing the tasks and the project, and a complete budget. These items must be in sufficient detail to provide a sound basis for the PJ to effectively monitor performance under the agreement to achieve project completion and compliance with HOME-ARP requirements. The written agreement cannot agree to provide HOME-ARP funds after the end of the HOME-ARP budget period.

   b. *Habitability and Property Standards*: The agreement must require the HOME-ARP NCS project to meet the habitability and property standards as described in Section VI.E.7 of this Notice based on the type of project completed.

   c. *Project Requirements*: The agreement must require the HOME-ARP NCS project to meet the project requirements as described in this Notice.

   d. *Other program requirements*: The agreement must require the PJ and owner to carry out the project in compliance with the other Federal requirements of 24 CFR 92 subpart H and 24 CFR 92.505.

   e. *Records and reports*: The agreement must specify the particular records that must be maintained and the information or reports that must be submitted to assist the PJ in meeting its recordkeeping and reporting requirements.

   f. *Restricted Use Period*: The agreement must require the project to meet the Restricted Use Period as described in Section VI.E.9 of this Notice based on project type.

   g. *Enforcement of the agreement*: The agreement must provide for a means for the PJ to enforce compliance with HOME-ARP requirements. This means of enforcement may include liens, deed restrictions, covenants running with the land, use restriction, or other

mechanism approved by HUD under which the PJ has the right to require specific performance. In addition, the agreement must specify remedies for breach of the provisions of the agreement.

h. *Plan of Conversion*: PJs that intend to allow conversion of HOME-ARP NCS projects to other permanent affordable housing as permitted in this Notice must describe conversion as a possible outcome of the HOME-ARP NCS project; specify the conditions under which conversion will be permitted; and require that the PJ approve the terms and conditions of any conversion before the conversion occurs.

i. *Additional PJ Conditions and Requirements*: PJs may include additional program and project requirements as determined necessary.

5. **Non-Profit Operating and Capacity Building:** The requirements at 24 CFR 92.504(c)(6), apply to the use of HOME-ARP funds for non-profit operating and capacity building assistance. The written agreement must describe the amounts and uses of HOME-ARP funds for operating expenses or capacity building. If the non-profit organization is not also receiving HOME-ARP funds to carry out a HOME-ARP project, the agreement must provide that the organization is expected to receive funds for a HOME-ARP project within 24 months of the date of receiving the funds for operating or capacity building expenses and must specify the terms and conditions upon which this expectation is based and the consequences of failure to receive funding for a project.

   When a PJ provides both operating assistance and capacity building assistance to an organization, it must enter into either one written agreement for both types of assistance or separate written agreements for operating expense assistance and capacity building assistance. If a PJ chooses to enter into one written agreement, the PJ must separately identify the scope of assistance, eligible uses and costs, and a budget for each type of funds.

C. Grants Management

1. **HOME-ARP Grant Agreement:** HUD will make HOME-ARP funds available to the PJ pursuant to a HOME-ARP Grant Agreement, consistent with Section VIII.C.2 below. Subject to the provisions of the grant agreement and requirements in this Notice, HUD will obligate HOME-ARP funds to the PJ upon execution of the agreement by both parties. In the grant agreement, the PJ agrees that funds invested in affordable housing under this Notice are repayable if the housing no longer meets the requirements of this Notice during the compliance period or the NCS no longer meets the requirements of this Notice during the restricted use period. The PJ also agrees to assume all responsibility for environmental review, decision making, and actions, as specified and required in regulation at 24 CFR 92.352 and 24 CFR Part 58. The PJ agrees to comply with 24 CFR 92.505 and applicable Uniform Administrative Requirements at 2 CFR part 200, as amended. The PJ agrees to comply with requirements established by the Office of Management and Budget (OMB) concerning the unique entity identifier and System for Award Management (SAM) requirements in Appendix I to 2 CFR part 200, as amended, and the Federal Funding Accountability and Transparency Act (FFATA) in Appendix A to 2 CFR part 170. The PJ

agrees to comply with the federal nondiscrimination and equal opportunity requirements at 24 CFR 92.350 and affirmative marketing requirements in 24 CFR 92.351 and the VAWA requirements set forth in 24 CFR 92.359. The HOME-ARP grant is obligated when the HUD Authorized Official signs the memorandum obligating HOME-ARP grants. The HOME-ARP Grant Agreement must be signed by the CPD Field Office Director and counter-signed by the PJ's authorized signatory. Once the CPD division in the local field office receives the fully executed HOME-ARP Grant Agreement, it will send the agreement to HUD's CFO Accounting Office for processing. As described in Section VIII.C.2 of this Notice, funds will become available to the PJ in IDIS once HUD's CFO Accounting Office processes the grant.

2. **Access to Administrative Set-aside Funds**: Upon issuance of this Notice, HUD will obligate all HOME-ARP grants to PJs through the signing of the HOME-ARP obligating memorandum, after which each HOME-ARP Grant Agreement must be signed by both parties. After obligation, HUD will permit the PJ to use 5 percent of its award for eligible administrative and planning costs under Section VI.A of this Notice. **The PJ may not expend any funds for non-administrative and planning costs before the HOME-ARP allocation plan is accepted by HUD as described in Section V.D.2 and 3 of this Notice.** HUD will make the remaining HOME-ARP grant funds available to the PJ once HUD accepts the HOME-ARP allocation plan. If the PJ does not submit a HOME-ARP allocation plan or if the PJ's plan is not accepted within a reasonable period of time, as determined by HUD, any costs incurred or HOME-ARP funds expended by the PJ will be considered ineligible costs and must be repaid with non-Federal funds in accordance with guidance from HUD.

3. **HOME-ARP Grant Number**: The PJ's HOME-ARP grant number is similar to its HOME grant number with the exception of the source type code. All HOME-ARP grants have the program identifier "M" and the source year of the grant "21." The different source type codes are identified in the table below.

Source Type Description	HOME Source Type Code	HOME-ARP Source Type Code
HOME Consortium	DC	DP
Metropolitan City	MC	MP
State	SG	SP
Insular Area	ST	IP
Urban County	UC	UP

The unique grantee identifier portion of the grant number will be the same for HOME-ARP grants as it is for HOME grants. See examples of HOME-ARP grant numbers with the different source type codes in the table below.

Participating Jurisdiction	HOME Grant Number	HOME-ARP Grant Number
Maryland	M21SG240100	M21SP240100
Baltimore	M21MC240200	M21MP240200

4. **Budget Period**: The budget period for HOME-ARP grants begins on the Federal Award Date, which is the date of the HUD Authorized Official's signature specified on the HOME-ARP Grant Agreement. The budget period for HOME-ARP grants ends on September 30, 2030. The PJ may not expend any HOME-ARP funds after September 30, 2030. After September 30, 2030, any HOME-ARP funds remaining in the PJ's HOME Investment Trust Fund Treasury account will be cancelled and not available for obligation or expenditure for any purpose (per 31 U.S.C. 1552).

5. **Period of Performance**: The period of performance for HOME-ARP grants begins on the Federal Award Date, which is the date of the HUD Authorized Official's signature specified on the HOME-ARP Grant Agreement. The period of performance for HOME-ARP grants ends on September 30, 2030.

6. **Audit**: Audits of the PJ, State recipients, and subrecipients must be conducted in accordance with 2 CFR part 200, subpart F.

7. **Closeout**: HOME-ARP funds will be closed out in accordance with 2 CFR part 200, subpart D. The PJ will use HUD's data system to closeout HOME-ARP grants once all HOME-ARP funds have been expended, all HOME-ARP activities are completed in accordance with the requirements of this Notice, and the proper beneficiary data has been entered. In order to closeout its HOME-ARP grants, the PJ must not have any open CPD monitoring findings or audits related the HOME-ARP funds. HUD will provide closeout guidance and instructions at a later date.

D. Applicability of Uniform Administrative Requirements.

The requirements of 2 CFR part 200, as amended apply to PJs, State recipients, and subrecipients receiving HOME-ARP funds, except for the following provisions: 2 CFR 200.306, 200.307, 200.308 (not applicable to participating jurisdictions), 200.311 (except as provided in 24 CFR 92.257), 200.312, 200.329, 200.333, and 200.334. The provisions of 2 CFR 200.305 apply as modified by 24 CFR 92.502(c) and this Notice. If there is a conflict between definitions in 2 CFR part 200 and 24 CFR part 92, the definitions in 24 CFR part 92, govern. Moreover, if there is a conflict between the provisions of 2 CFR part 200 and the provisions of this Notice, the provisions of this Notice govern.

Where regulations in 24 CFR part 92 refer to specific regulations of 2 CFR part 200 that were or are renumbered or revised by amendments to 2 CFR part 200, the requirements that apply to the

use of HOME-ARP funds are the applicable requirements in 2 CFR part 200, as amended, notwithstanding the renumbered regulatory reference.

E. Financial Management

1. **The HOME Investment Trust Fund**: HUD will establish a HOME-ARP Investment Trust Fund Treasury account (Treasury account) for a PJ's HOME-ARP funds. The Treasury account includes all HOME-ARP funds allocated to the PJ by formula and any HOME-ARP funds repaid by the PJ.

   The PJ must establish a HOME-ARP Investment Trust Fund local account (local account) as described in 24 CFR 92.500. The PJ may use either a separate local account or, a subsidiary account within its general fund (or other appropriate fund) as the local account. The PJ may not use the same local account for HOME-ARP that it uses for its HOME local account. The local account includes deposits of HOME-ARP funds disbursed from the Treasury account. The local account must be interest-bearing.

   HUD will reduce or recapture any HOME-ARP funds that are in the Treasury account that are not expended (drawn down) by September 30, 2030. Due to end-of-year financial system closeouts that begin before this date and prevent electronic access to the payment system, requests to draw down the funds must be made at least 7 full business days before this date so that the funds still can be drawn from the Treasury account through IDIS.

2. **Program Income**: Program Income means gross income received by the PJ generated from the use of HOME-ARP funds during the grant period of performance. This includes, but is not limited to, principal and interest payments from a loan made with HOME-ARP funds, or other income or fees received from project owners in connection with HOME-ARP funds, and interest earned by the PJ on program income before its disposition.

   Program income earned as a result of the use of HOME-ARP funds is HOME program income and must be used in accordance with the requirements of 24 CFR part 92. All program income must be recorded in IDIS. Program income must be deposited in the PJ's HOME-ARP local account (unless the PJ allows a State recipient or subrecipient to retain the program income for additional HOME projects pursuant to such terms and conditions in the written agreement and this Notice). The PJ must enter HOME-ARP program income retained by the State recipient or subrecipient as a HOME program income receipt in IDIS and subgrant the program income to the State recipient or subrecipient that retained the program income. The PJ is responsible to report on the use of its program income in IDIS, including program income it allowed a State recipient or subrecipient to retain.

3. **Repayments**: Any HOME-ARP funds used for costs that are not eligible under this Notice, funds invested in a project that is terminated before completion, either voluntarily or otherwise, or funds invested in HOME-ARP rental housing and NCS that does not meet the requirements in this Notice for the applicable period specified in this Notice must be repaid by the PJ to its Treasury account. If the funds are repaid after September 30, 2030, they will be recaptured by the U.S. Department of Treasury and the PJ will not be able to re-use the

funds for eligible HOME-ARP activities. HOME-ARP funds may not be repaid to the PJ's local account.

4. **Integrated Disbursement and Information System (IDIS):** The PJ will use IDIS to administer its HOME-ARP funds. The PJ will request disbursements of HOME-ARP funds from its Treasury account and collect and report information on the use of HOME-ARP funds through IDIS. (For purposes of reporting in IDIS, a HOME-ARP project is an activity.) The PJ must report all program income in IDIS.

   The requirements of 24 CFR 92.502(c)(3) do not apply to HOME-ARP funds.

   In accordance with this Notice, a HOME-ARP written agreement providing HOME-ARP funds to a project or the CHDO/nonprofit must be signed and dated by:

   a. the PJ and project owner for HOME-ARP rental and HOME-ARP NCS;

   b. the PJ and service provider for HOME-ARP supportive services;

   c. the PJ and landlord, tenant, and/or HOME-ARP sponsor, as applicable, for HOME-ARP TBRA; and,

   d. the PJ and CHDO/nonprofit organization for HOME-ARP Operating Expenses and Capacity Building Assistance.

   This must occur before any HOME-ARP funds are disbursed. Federal funds cannot be drawn from the Treasury account in advance of the need to pay an eligible cost. Consequently, HOME-ARP funds cannot be drawn from the U.S. Treasury and placed in escrow or advanced in lump sums to State recipients, subrecipients, project owners, service providers, or landlords or tenants, except funds drawn down for a HOME-ARP rental project for an operating cost assistance reserve or reserve for replacement pursuant to Section VI.B.5.g. of this Notice or a HOME-ARP NCS project for a replacement reserve pursuant to Section VI.E.

   Once funds are drawn from the PJ's Treasury account, they must be expended for an eligible HOME-ARP cost within 15 days. Any interest earned within the 15-day period may be retained by the PJ as HOME program income and recorded in IDIS as a program income receipt. Any funds that are drawn down and not expended for eligible costs within 15 days of the disbursement must be returned to HUD for deposit in the PJ's Treasury account. Interest earned after 15 days belongs to the United States and must be remitted to the United States as provided in 2 CFR 200.305(b)(9), except interest amounts up to $500 per year may be retained for the PJ's administrative expenses.

   Additional HOME-ARP funds may be committed to a project up to one year after project completion.

HUD will govern access to IDIS by other entities participating in the HOME program (e.g., State recipients). Only PJs and State recipients (if permitted by the State) may request disbursement.

F. Recordkeeping

Each PJ must establish and maintain sufficient records to enable HUD to determine whether the PJ has met the requirements of this Notice. At a minimum, the following records are needed:

1. **Program Records**:

   a. Records evidencing that all HOME-ARP funds used by a PJ for TBRA, supportive services, and acquisition and development of non-congregate shelter units benefit individuals and families in qualifying populations.

   b. Records evidencing that not less than 70 percent of affordable rental housing units acquired, rehabilitated, and/or constructed with HOME funds by a PJ are restricted for occupancy by households in the qualifying populations.

   c. Records documenting compliance with the 15 percent limitation on administrative and planning costs.

   d. Records documenting compliance with the 5 percent limitation on CHDO and non-profit operating and capacity building costs.

   e. The underwriting and subsidy layering guidelines adopted in accordance with Section VI.B.10 of this Notice that support the PJ's HOME-ARP allocation plan certification.

   f. If existing debt is refinanced for multifamily rehabilitation projects, the HOME-ARP refinancing guidelines established in the HOME-ARP in the HOME-ARP Allocation Plan.

   g. If HOME-ARP funds are used for TBRA, records supporting the PJ's written selection policies and criteria; supporting documentation for preferences for specific categories of qualifying individuals; and records supporting the rent standard and minimum tenant contribution established in accordance with Section VI.C.7 and 8 of this Notice.

   h. Confidentiality.

      i. The PJ's written policies and procedures for maintaining confidentiality of qualifying households as individuals or families fleeing, or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking in accordance with Section VIII.H.

      ii. The PJ's written policies and procedures for maintaining confidentiality in compliance with the VAWA protections contained in 24 CFR Part 5, Subpart L.

2. **Project Records**: PJs are required to retain the following records for HOME-ARP-assisted projects, as specified by activity type.

   a. A full description of each project assisted with HOME-ARP funds, including the location (address of project), form of HOME-ARP assistance, and the units, families, or qualifying households assisted with HOME-ARP funds, subject to confidentiality requirements in this Notice.

   b. The source and application of funds for each project, including supporting documentation in accordance with 2 CFR 200.302; and records to document the eligibility and permissibility of the project costs, including the documentation of the actual HOME-ARP-eligible development costs of each HOME-ARP-assisted unit as defined in this Notice.

   c. Records (i.e., written agreements) demonstrating compliance with the written agreement requirements in Section VIII.B of this Notice.

   d. Records (e.g., inspection reports) demonstrating that each HOME-ARP rental project meets the property standards in Section VI.B.11 of this Notice at project completion and through the applicable minimum compliance period. In addition, during a HOME-ARP rental project's minimum compliance period, records demonstrating compliance with the property standards and financial oversight pursuant to 24 CFR 92.504(d) and the operating cost assistance reserve management and oversight required by Section VI.B.23 of this Notice.

   e. Records (e.g., inspection reports) demonstrating that each unit occupied by a qualifying household receiving HOME-ARP TBRA, meets the housing quality standards of Section VI.C.9 of this Notice at initial occupancy and throughout the household's term of assistance.

   f. Records (e.g., inspection reports) demonstrating that each NCS project meets the property and habitability standards of Section VI.E.7 of this Notice at project completion and throughout the applicable restricted use period.

   g. Records demonstrating that each qualifying household is eligible for HOME-ARP assistance based on the requirements of the ARP and Section IV of this Notice.

   h. Records demonstrating that each household qualifying as homeless, records that meet the requirements in 24 CFR 576.500(b)(1), (2), (3), or (4), as applicable (except that youth aged 24 and under must not be required to provide third-party documentation to show they are homeless to receive any shelter, housing, or services for which ESG or CoC Program funds may be used to supplement the HOME-ARP assistance).

   i. Records demonstrating that each household qualifying as "at risk of homelessness," records that meet the requirements in 24 CFR 576.500(c)(1) or (2), as applicable, and include the following documentation of annual income:

i. Income evaluation form containing the minimum requirements specified by HUD and completed by the recipient or subrecipient; and

ii. Source documents for the assets held by the household and income received over the most recent period for which representative data is available before the date of the evaluation (e.g., wage statement, unemployment compensation statement, public benefits statement, bank statement);

iii. To the extent that source documents are unobtainable, a written statement by the relevant third party (e.g., employer, government benefits administrator) or the written certification by the recipient's or subrecipient's intake staff of the oral verification by the relevant third party of the income the household received over the most recent period for which representative data is available; or

iv. To the extent that source documents and third-party verification are unobtainable, the written certification by the household of the amount of income the household received for the most recent period representative of the income that the household is reasonably expected to receive over the 3-month period following the evaluation.

j. Records demonstrating compliance with the household income requirements in accordance with Section VI.B.12 of this Notice for each HOME-ARP rental project.

k. Records demonstrating that each HOME-ARP rental and NCS project meets the minimum compliance period or restricted use period described in Sections VI.B.18 and VI.E.9 respectively, of this Notice.

l. Records demonstrating that for each HOME-ARP rental housing unit or for each household receiving HOME-ARP TBRA, compliance with the tenant protection requirements of Sections VI.B.19 and VI.C.2, respectively, of this Notice. For HOME-ARP TBRA or rental projects under a master lease, the PJ must retain records demonstrating that a master lease for housing leased by a HOME-ARP sponsor and each sublease between a qualifying household and HOME-ARP sponsor complies with the tenant and participant protections of 24 CFR 92.253 and this Notice. Records must be kept for each household.

m. Records demonstrating compliance with the return of the HOME-ARP rental capitalized operating cost assistance reserve and/or the NCS replacement reserve at the end of the compliance or restricted use period in accordance with Sections VI.B.24 and VI.E.10 respectively, of this Notice.

n. Records demonstrating that each HOME-ARP rental and each NCS project meets the underwriting and subsidy layering or due diligence requirements of Section VI.B.10 or VI.E.6 of this Notice.

o. Records demonstrating that each HOME-ARP rental housing project meets the rent limitations of Sections VI.B.13 and VI.B.15 of this Notice for the 15-year minimum compliance period. Records must be kept for each household assisted.

p. Records demonstrating that each multifamily HOME-ARP rental housing project involving rehabilitation with refinancing complies with the refinancing guidelines established in accordance with 24 CFR 92.206(b).

q. Records demonstrating that a site and neighborhood standards review was conducted for each HOME-ARP rental housing project involving new construction under Section VI.B of this Notice to determine that the site meets the requirements of 24 CFR 983.57(e)(2) and (e)(3), in accordance with 24 CFR 92.202.

r. Records demonstrating that any conversion of HOME-ARP NCS complies with the requirements established by Section VI.E of this Notice, including that conversion of NCS only occurred after the end of the applicable minimum use period defined in Section VI.E.11.

s. For all HOME-ARP NCS projects the following documents must be maintained, as applicable:

    i. Purchase contract, closing documents, settlement statement and title work for acquisitions.

    ii. Appraisal or other estimation of value to justify acquisition expenditure.

    iii. Architectural and engineering contracts and completed designs, plans, and specifications for rehabilitation and new construction activities.

    iv. Invoices, pay requests, and proof of payment for all project expenditures.

    v. Proof of insurance.

    vi. Project and program audits.

t. For all HOME-ARP Supportive Services projects pursuant to McKinney-Vento or Homelessness Prevention Supportive Services:

    i. Records, where applicable, demonstrating compliance with the termination of assistance requirement as described in Section VI.D.5 of this Notice.

    ii. Records of all solicitations of and agreements with subrecipients and contractors, records of all payment requests by and dates of payments made to subrecipients, and documentation of all monitoring and sanctions of subrecipients, as applicable including any findings and corrective actions required.

    iii. Records of all procurement contracts and documentation of compliance with the procurement requirements in 2 CFR part 200, subpart D, as revised by Section VIII.D of this Notice.

    iv. Records evidencing the use of the written procedures required under Section VI.D.2 and records evidencing compliance with Section IV.C.2 of this Notice.

v. Records of all leases, subleases, and financial assistance agreements for the provision of rental payments, documentation of payments made by the PJ to owners, HOME-ARP sponsor, or qualifying households for the provision of financial assistance for rental payments, and supporting documentation for these payments, including dates of occupancy by qualifying individuals and families.

vi. Records that document the monthly allowance for utilities (excluding telephone) used to determine compliance with the rent restriction.

vii. Records of the types of services provided under the PJ's program and the amounts spent on these services.

viii. Records demonstrating subrecipient compliance with the recordkeeping requirements in Section VIII.F of this Notice.

u. For all HOME-ARP Housing Counseling Services projects as defined in 24 CFR part 5, each participating housing counseling agency must maintain a recordkeeping and reporting system in accordance with 24 CFR 214.315 and 24 CFR 214.317. The system must permit HUD to easily access all information needed for a performance review.

v. For all HOME-ARP-assisted nonprofit operating expense and capacity building assistance activities:

i. Records concerning the use of funds for nonprofit operating expense and capacity building assistance must be maintained to enable HUD to determine whether the PJ has met the requirements of Section VI.F of this Notice.

ii. Written agreements between the PJ and the nonprofit organization providing nonprofit operating expense assistance or capacity building assistance must be retained for five years after the agreement terminates.

3. **Financial records:**

a. Records, in accordance with 2 CFR 200.302, identifying the source and application of HOME-ARP funds. Identification must include, as applicable, the Assistance Listing program title and number (formerly Catalogue of Federal Domestic Assistance), Federal award identification number and year, name of the Federal agency, and name of the pass-through entity, if any.

b. Records concerning the HOME-ARP Investment Trust Fund Treasury account and local account required to be established and maintained by this Notice, including deposits, disbursements, balances, supporting documentation and any other information required by IDIS.

c. Records identifying the source and application of program income and repayments.

d. Records demonstrating adequate budget control and other records required by 2 CFR 200.302, including evidence of periodic account reconciliations.

4. **Program administration records:**

   a. Records demonstrating compliance with the written agreements required by Section VIII.B of this Notice.

   b. Records demonstrating compliance with the applicable uniform administrative requirements required by Section VIII.D of this Notice.

   c. Records documenting required inspections, monitoring reviews and audits, and the resolution of any findings or concerns.

5. **Records concerning other Federal requirements:**

   a. Equal opportunity and fair housing records.

      i. Data on the extent to which each racial and ethnic group, and single-headed households by gender of household head) have applied for, participated in, or benefited from, any program or activity funded in whole or in part with HOME-ARP funds.

      ii. Documentation that the PJ submitted a certification that it will affirmatively further fair housing consistent with HUD's Interim Final Rule entitled Restoring Affirmatively Furthering Fair Housing Definitions and Certifications (86 FR 30779, June 10, 2021) (codified at 24 CFR 5.151 and 5.152;), available at https://www.federalregister.gov/documents/2021/06/10/2021-12114/restoring-affirmatively-furthering-fair-housing-definitions-and-certifications.

      iii. Records demonstrating compliance with the nondiscrimination and equal opportunity requirements of 24 CFR 92, Subpart H.

   b. Affirmative marketing and MBE/WBE records.

      i. Records demonstrating compliance with the affirmative marketing procedures and requirements of 24 CFR 92.351 and this Notice.

      ii. Documentation and data on the steps taken to implement the jurisdiction's outreach programs to minority-owned (MBE) and female-owned (WBE) businesses including data indicating the racial/ethnic or gender character of each business entity receiving a contract or subcontract of $25,000 or more paid, or to be paid, with HOME-ARP funds; the amount of the contract or subcontract, and documentation of participating jurisdiction's affirmative steps to assure that minority business and women's business enterprises have an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction, and services.

   c. Records demonstrating compliance with the environmental review requirements of 24 CFR 92.352, 24 CFR part 58, and this Notice including flood insurance requirements.

d. Records demonstrating compliance with the requirements of 24 CFR 92.353 and the provisions of Section VII.F of this Notice regarding displacement, relocation, and real property acquisition, including but not limited to:

   i. project occupancy lists identifying the name and address of all persons occupying the real property on the date described in 24 CFR 92.353(c)(2)(i)(A), moving into the property on or after the date described in 24 CFR 92.353(c)(2)(i)(A), and occupying the property upon completion of the project;

   ii. lists of all individuals or families occupying hotels and motels and other nonresidential properties acquired, rehabilitated, and/or demolished and newly constructed to become HOME-ARP NCS or HOME-ARP rental housing that qualify for assistance under this Notice as members of a qualifying population, as well as records indicating whether such persons were assisted by the HOME-ARP program by the PJ following the closure of the nonresidential properties because of HOME-ARP activities

   iii. lists of all individuals or families occupying HOME-ARP NCS that were converted during the required use period that qualify for assistance under this Notice, as well as records indicating whether moving costs or advisory services were provided as part of HOME-ARP administrative costs or under the HOME-ARP supportive services activity in Section VI.D of this Notice, and records indicating whether such persons were assisted by the HOME-ARP program by the PJ following the conversion of the HOME-ARP NCS units.

   iv. Documentation that the PJ has and followed a RARAP in accordance with 24 CFR 92.353 and 24 CFR 42.325.

e. Records demonstrating compliance with the labor requirements of 24 CFR 92.354, including contract provisions and payroll records.

f. Records demonstrating compliance with the lead-based paint requirements of 24 CFR part 35, subparts A, B, J, K, M and R, as applicable.

g. Records supporting compliance with conflict of interest requirements in 24 CFR 92.356, as revised by Section VII.H of this Notice, as well as documentation of any exceptions granted by HUD or a state PJ, as applicable, to the conflict of interest provisions in 24 CFR 92.356, as revised by Section VII.H of this Notice.

h. Records demonstrating compliance with debarment and suspension requirements in 2 CFR part 2424.

i. Records concerning intergovernmental review, as required by 24 CFR 92.357.

j. Records of emergency transfers requested under 24 CFR 5.2005(e) and 24 CFR 92.359 pertaining to victims of domestic violence, dating violence, sexual assault, or stalking, including data on the outcomes of those requests.

k. Documentation of actions undertaken to meet the requirements of 24 CFR part 75 which implements section 3 of the Housing Development Act of 1968, as amended (12 U.S.C. 1701u).

6. **State Recipients and Subrecipients:** A PJ that distributes HOME-ARP funds to State recipients or subrecipients must require the State recipients or subrecipients to keep the records required by paragraphs 1. program records, 2. project records, 3. financial records, 4. program administration records, and 5. records concerning other federal requirements of Section VIII.F of this Notice, and such other records as the PJ determines to be necessary to enable the PJ to carry out its responsibilities under this Notice. The PJ need not duplicate the records kept by the State recipients or subrecipients. The PJ must keep records concerning its annual review of the performance and compliance of each State recipient and subrecipient as required under 24 CFR 92.504(a).

7. **Period of record retention:** All records pertaining to HOME-ARP funds must be retained for five years, except as provided below.

   a. For HOME-ARP rental housing projects, records may be retained for five years after the project completion date; except that records of individual tenant income verifications, project rents and project inspections must be retained for the most recent five-year period, until five years after the affordability period terminates.

   b. For HOME-ARP TBRA projects, records must be retained for five years after the period of rental assistance terminates.

   c. Written agreements must be retained for five years after the agreement terminates.

   d. Records covering displacements and acquisition must be retained for five years after the date by which all persons displaced from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled in accordance with 24 CFR 92.353.

   e. If any litigation, claim, negotiation, audit, monitoring, inspection, or other action has been started before the expiration of the required record retention period records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.

8. **Access to records:** The PJ must provide citizens, public agencies, and other interested parties with reasonable access to records, consistent with applicable state and local laws and any other applicable grant conditions from other federal grant programs regarding privacy and obligations of confidentiality.

   The PJ, subrecipient, contractor, or owner may create a program participant identifier code or number that can be used on a file and maintained internally, in such a way that the number itself does not inadvertently identify the program participant, (i.e., no use of initials, date of birth, or other pieces of information that might suggest the identity of the program participant). The "key" or "cypher" for the program participant identifier code would itself be confidential and would not leave the provider. In the circumstance of HUD programs, the

Unique Personal Identification Number which is generated within the comparable database could be used with auditors to identify records of services to distinct individuals, subject to the below requirement.

HUD and the Comptroller General of the United States, any of their representatives, have the right of access to any pertinent books, documents, papers, or other records of the PJ, state recipients, and subrecipients, in order to make audits, examinations, excerpts, and transcripts. If a provider of services or operator of an NCS is subject to state or local laws or other federal grant programs that require that HUD not be given access to records detailing PII of victims, then auditors or evaluators may be given access to representative files without any sharing of individual identifying information.

G. Reporting and Performance Reports.

The PJ must submit reports in a format and at such time as prescribed by HUD. In addition, HUD and Office of the Inspector General (OIG) staff must be given access, upon reasonable notice, to all information related to the selection, award, and use of HOME-ARP funds.

Each PJ must enter the required HOME-ARP data elements timely in IDIS.

1. For HOME-ARP rental activities under Section VI.B of this Notice, the PJ must enter complete project completion information when it completes the activity in IDIS, except the assisted units can be marked vacant until they are occupied by eligible households.

2. For HOME-ARP NCS activities under Section VI.E of this Notice, the PJ must enter complete project completion information when it completes the activity in IDIS. In addition, the PJ must report the disposition of any HOME-ARP-assisted NCS activity that is converted to another eligible use at the time of conversion.

3. For HOME-ARP TBRA activities under Section VI.C of this Notice, the PJ must report beneficiary information in IDIS at the time assistance is provided.

4. For HOME-ARP Supportive Services activities under Section VI.D of this Notice, the PJ must report in IDIS quarterly, by the 30th day after the end of each calendar quarter, on the number of homeless and not homeless households assisted with supportive services and housing counseling, including the race and ethnicity, household size, and household type of the households assisted.

HUD will issue guidance about reporting on HOME-ARP activities in the PJ's consolidated annual performance and evaluation report (CAPER) required under 24 CFR 91.520, at a later date.

H. Confidentiality Requirements

1. All entities assisted by HOME-ARP funds must develop, implement, and maintain written procedures to require that –

a. All records containing personally identifying information of any individual or family who applies for and/or receives HOME-ARP assistance will be kept secure and confidential;

b. The address or location of any NCS or HOME-ARP rental housing exclusively for individuals fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be made public, except as necessary where making the address or location public does not identify occupancy of the NCS or HOME-ARP rental housing, when necessary to record use restrictions or restrictive covenants in accordance with Section VI.B or VI.E, or with written authorization of the person or entity responsible for the operation of the NCS or HOME-ARP rental housing; and

c. The address or location of any program participant that is a fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be made public, except as provided under a privacy policy of the PJ consistent with state and local laws and any other grant conditions from other federal grant programs regarding privacy and obligations of confidentiality.

2. Documenting status of a qualifying population that is fleeing or attempting to flee domestic violence, dating violence, stalking, sexual assault, or human trafficking:

a. If an individual or family qualifies because the individual or family is fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking then acceptable evidence includes an oral or written statement by the qualifying individual or head of household seeking assistance that they are fleeing that situation. An oral statement may be documented by either –
   i. a written certification by the individual or head of household; or
   ii. a written certification by a victim service provider, intake worker, social worker, legal assistance provider, health-care provider, law enforcement agency, legal assistance provider, pastoral counselor, or an intake worker in any other organization from whom the individual or family sought assistance.

The written documentation need only include the minimum amount of information indicating that the individual or family is fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking and need not include any additional details about the conditions that prompted the individual or family to seek assistance.

IX. PERFORMANCE REVIEWS

HUD will review the performance of each PJ in carrying out its responsibilities for the use of HOME-ARP funds and its compliance with the requirements of this Notice. Such reviews may take the form of remote or on-site monitoring, review of IDIS data or reports, assessment of documents requested from the PJ, subrecipient, or other entity carrying out HOME-ARP activities, and inquiries resulting from external audit reports, media reports, citizen complaints,

or other sources of relevant information. HUD may also review a PJ's timely use of HOME-ARP funds for eligible activities, including the progress of expenditures for individual projects or activities, the requirement to place a project in service in accordance with requirements in this Notice, and compliance of HOME-ARP rental housing and NCS with the 4-year deadline for completing projects.

If HUD preliminarily determines that a PJ has not met a requirement of this Notice or an applicable requirement of the HOME regulations at 24 CFR Part 92, HUD will communicate its determination in writing and provide the PJ with the opportunity to demonstrate, based on substantial facts, documentation, and data, that it has done so. HUD may extend any time period it provided to the PJ to demonstrate its compliance if upon request of the PJ, HUD determines that is it infeasible for the PJ to provide a full response within the prescribed period.

If the PJ fails to demonstrate to HUD's satisfaction that it has met the requirement, HUD will take corrective or remedial action in accordance with this section or 24 CFR 92.552.

A. Corrective and Remedial Actions

Corrective or remedial actions for a performance deficiency (e.g., failure to meet a provision of this Notice or an applicable provision of 24 CFR Part 92) will be designed to prevent a continuation of the deficiency; mitigate, to the extent possible, its adverse effects or consequences; and prevent its recurrence. HUD may impose corrective or remedial actions including but not limited to the following:

1. HUD may instruct the PJ to submit and comply with proposals for action to correct, mitigate and prevent a performance deficiency, including:

    a. Preparing and following a schedule of actions for carrying out the affected activities, consisting of schedules, timetables, and milestones necessary to implement the affected activities;

    b. Establishing and following a management plan that assigns responsibilities for carrying out the remedial actions;

    c. Canceling or revising activities likely to be affected by the performance deficiency, before expending HOME-ARP funds for the activities;

    d. Reprogramming HOME-ARP funds that have not yet been expended from affected activities to other eligible activities;

    e. Reimbursing its HOME-ARP grant in any amount not used in accordance with the requirements of this Notice;

    f. Suspending disbursement of HOME-ARP funds for affected activities; and

    g. Establishing procedures to ensure compliance with HOME-ARP requirements.

2. HUD may also:

   a. Change the method of payment from an advance to a reimbursement basis and may require supporting documentation to be submitted for HUD review for each payment request before payment is made;

   b. Determine the PJ to be high risk and impose special conditions or restrictions on the use of HOME-ARP funds in accordance with 2 CFR 200.208; and

   c. Take other remedies that may be legally available, including remedies under 2 CFR 200.339 and 200.340.

B. Sanctions

The requirements at 24 CFR 92.552 apply to HOME-ARP funds, except that the provision at 24 CFR 92.552(a)(2)(iv) related to failure to comply with matching contribution requirements shall not apply.

X. FINDING OF NO SIGNIFICANT IMPACT

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for inspection at HUD's Funding Opportunities web page at: https://www.hud.gov/program_offices/spm/gmomgmt/grantsinfo/fundingopps.

Eviction Defense Center

EXHIBIT B
FY 2025 Annualized BUDGET

Agency: Eviction Defense Center

List Funds by Source REVENUES	FY 25 7/1/24- 6/30/25
City of Berkeley Funds:	
Housing & Community Services (HHCS)	$797,139
Other City Berkeley Rent Board	$435,500
State/Alameda County Funds:	
Alameda Co. Housing & Community Development County of Alameda	$421,000
Other State/Alameda Co. City of Oakland	$189,000
Other State/Alameda Co. City of Richmond	$200,000
Federal:	
Private/Foundations/Corporation Funds:	
Shriver Foundation	$200,000
BACS - Keep Oakland Housed	$100,000
Agency Generated Revenue:	
Other donations	$10,000
TOTAL REVENUE	$2,352,639
Dollar Value of COB In-Kind Contributions	$0
Dollar Value of Non-COB In-Kind Contributions	$20,000
Percent City of Berkeley (includes In-Kind)	52%
Percent Other Public	34%
Percent Private/Other	14%
EXPENDITURES	
Salaries and Benefits	$1,112,000
Operating Expense	$300,000
TOTAL EXPENDITURES	$1,412,000
Fixed Asset Expenditures	$125,000

EXHIBIT B
FY 2025 Annualized BUDGET

Program: Housing Retention

Personnel Expense		Annualized		U1		HOME-ARP		Leveraged Funding		Total Program Budget	
Staff Position	Staff Name	Salary (100% FTE)	$/hr	%FTE	Salary	%FTE	Salary	%FTE	Salary	%FTE	Salary
Executive Director	Anne Omura	$125,000	$60.10	3%	$4,000.00	6%	$8,000.00	10%	$12,000.00	19%	$24,000.00
Program Director - Housing Retention	Eric Magana	$90,000	$43.27	5%	$4,500.00	9%	$8,000.00	16%	$14,000.00	29%	$26,500.00
Intake Specialist	Jose Morales	$65,000	$31.25	38%	$25,000.00	62%	$40,000.00	0%	$0.00	100%	$65,000.00
				# of Total FTE	**Subtotal Salaries**	**# of Total FTE**	**Subtotal Salaries**	**# of Total FTE**	**Subtotal Salaries**	**# of Total FTE**	**Subtotal Salaries**
Subtotal Salaries		$280,000.00		0.46	$33,500.00	0.77	$56,000.00	0.26	$26,000.00	1.48	$115,500.00
Taxes and Benefits					$4,348.00		$8,696.00		$3,120.00		$16,164.00
Total Personnel Exp					$37,848.00		$64,696.00		$29,120.00		$131,664.00
Operating Expense											
Indirect Costs					$6,675.00		$13,350.00		$0.00		$20,025.00
Rental Assistance U1 - Minimum 25 households (up to $8,000)					$205,477.00		$0.00		$0.00		$205,477.00
HOME ARP - Minimum 58 households(up to $8,000)					$0.00		$469,093.00		$0.00		$469,093.00
Total Operating Expense					$212,152.00		$482,443.00		$0.00		$694,595.00
Total Expense					$250,000		$547,139		$29,120.00		$826,259.00

☒ I certify that all eligible employees are compensated in compliance with Berkeley's Living Wage ordinance.
☒ I certify that I am aware of the City of Berkeley Workforce Standards and Enforcement.

Revenue Detail

Are City funds being used as a required leverage or match for any other funding source? No

Name of Revenue Source	Amount of Award	Does this Revenue Source require match funding?	Match % Required	Amount of City Funds Used as Match	Describe Eligible Activities that the funds support
Berkeley Rent Board	$29,120	No			Eric Magana/Anne Omura legal services salary & benefits
	$0	No			
Totals	$29,120			$0	

Budget Detail

Staff Position	Budget Line/Staff Name	Budget Detail/Services provided	COB Amount FY2025	Degrees/ Certificates/ Experience	TB/FP Rqd?	TB/FP Curr?
Executive Director	Anne Omura	Financial oversight, distribution of funds	$12,000	JD, 30 years experience in housing law	N/A	N/A
Program Director - Housing Retention	Eric Magana	program oversight, final approval of applications	$12,500	9 years experience case management	N/A	N/A
Intake Specialist	Jose Morales	intake interviews, gathering supporting documents	$65,000	4 years experience intake specialist	N/A	N/A
	Taxes and Benefits	workers comp, health/dental/vision, 403b retirement, life ins	$13,044			
	Indirect Costs	office supplies, rent, parking, computer expenses, phones, internet, accounting, copier, postage, business tax, storage, gen liability insurance	$20,025			
	Rental Assistance U1 - Minimum 25 households (up to $8,000)	Rental Assistance payments	$205,477			
	HOME ARP - Minimum 58 households(up to $8,000)	Rental Assistance payments toward rental arrears, utility arrears and/or other rental fees	$469,093			

Total U1 for Program: $250,000, Total HOME-ARP for Program: $547,139

Total FY25 Budget (including all programs): $797,139
Total FY26 Budget (including all programs): $797,139
Total FY27 Budget (including all programs): $797,139
Total FY28 Budget (including all programs): $797,139
Total FY25-28 Contract Term NTE: **$3,188,556**

METHOD OF PAYMENT

Agencies that have received an allocation from the City of Berkeley may receive an initial advance in July or August, for the period of July through September, equal to one-fourth of the annual amount of the allocation budgeted for ongoing operating costs. In order to receive the initial payment agencies must submit and receive approval from the City on all reports, statements, and documents required by the City of Berkeley to execute the agency's contract, including:

- Advance Payment Terms and Conditions;
- Authorized Signatory;
- Updated and current insurance;
- Advance payment request in CDS;
- Update agency contact information in CDS;
- Contract Information Document for FY25 and each subsequent year in CDS (Exhibit A & B, and associated attachments);
- Certifications (see contracting checklist for requirements);
- Business License; and
- Any overdue reports from prior contract reporting cycles.

Subsequent quarterly payments will be released only after contract execution and receipt and approval of required reports, statements, and documentation, including Advance Payment Requests, as indicated on report sections in Exhibit A.

The agency is responsible for submitting:

1. a CITY OF BERKELEY COMMUNITY AGENCY REQUEST FOR ADVANCE PAYMENT by September 15th, December 15th, and March 15th for the remainder to be paid as one-fourth of the annual allocation for ongoing operating costs; and
2. a CITY OF BERKELEY COMMUNITY AGENCY STATEMENT OF EXPENSE verifying the use of the contract funds by the last working day of the month in October, January, and April, and August.

Agencies funded through the Youth Equity Partnership (YEP) are responsible for submitting:

1. a CITY OF BERKELEY COMMUNITY AGENCY REQUEST FOR ADVANCE PAYMENT by October 15th, January 15th, April 15th and July 8th; and
2. a CITY OF BERKELEY COMMUNITY AGENCY STATEMENT OF EXPENSE verifying the use of the contract funds by October 15th, January 15th, April 15th and August 31st.

The City reserves the right to require contractor to submit monthly invoices with backup documentation in certain situations, i.e., new contractors, contractors, contractors that have previously had difficulties with financial reporting requirements or fail to comply with reporting requirements. Contractor will be notified if the Method of Payment differs from that stated above.

ATTACHMENT A: Income Requirements and Documentation Instructions

Reporting Income Levels:

Agencies must gather income data for each client and/or household served as required by the funding source. Income data may be in the form of paychecks/stubs or other certification of income from work or benefits, or self-certification of income level. This method is preferred over presumed categories as it gives more accurate information about beneficiaries served at various levels, especially at the poverty level.

Unless your program has documentation that would support reporting a client under another category, use the following categories to report on clients served in particular "Presumed Benefit Categories":

- Abused Children – 30% of Area Median Income (AMI);
- Battered Spouses – 50% of AMI;
- Severely disabled adults – 50% of AMI;
- Homeless – 30% of AMI;
- Illiterate Adults – 50% of AMI;
- Persons with AIDS – 50% of AMI;
- Migrant farm workers – 50% of AMI;
- Elderly (62 years of age or older):
    - Center-based senior services – 80% of AMI;
    - Other senior services – 50% of AMI.

Keep files documenting the income of the clients you report as having served. Programs serving children must collect income verification from the adult responsible for the child. Nature/Location: If the clientele you serve would be presumed to have low or moderate incomes by virtue of the nature of the activity and the place it is carried out, for example, services for school children who all qualify for free or reduced lunch, report all beneficiaries as moderate income unless information is available that would support reporting such beneficiaries under another income category(ies). If an agency opts to use this method for reporting data, a detailed explanation is required.

Disabled: Persons with a condition(s) which substantially limits one or more activities of daily living, or a person having documentation of a disability or a person regarded as having such impairment.

Homeless: Use the following (HUD) definition to determine whether the client is homeless: Living on or in:

1) the streets or other place not fit for human habitation (i.e. park, car, homeless encampment, abandoned building),
2) emergency shelter (includes hotel or motel paid for with an emergency shelter voucher),
3) transitional housing, and prior to that was homeless and living on the streets or in an emergency shelter, and upon leaving transitional housing has no resources to obtain permanent housing, or

4) living less than 30 days in a jail or institution, and prior to that had been staying in one of the three categories listed above.

Chronically Homeless: The HUD definition of a chronically homeless person is an unaccompanied homeless individual with a disabling condition, living on the streets or in a shelter who has either:

1) been continuously homeless for a year or more, or
2) has had at least four episodes of homelessness in the past three years.

FY2025	Household Size					
Income Level	1	2	3	4	5	6
Poverty	$15,060	$20,440	$25,820	$31,200	$36,580	$41,960
Extremely Low (to 30% AMI)	$32,700	$37,400	$42,050	$46,700	$50,450	$54,200
Very Low (31-50% AMI)	$54,500	$62,300	$70,100	$77,850	$84,100	$90,350
Low (51-80% AMI)	$84,600	$96,650	$108,750	$120,800	$130,500	$140,150

Source: HUD User FY 2024 Income Limits Documentation System:
https://www.huduser.gov/portal/datasets/il/il2022/2022summary.odn
Department of Health & Human Services (HHS) 2024 Federal Poverty Level Chart:
https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines

ATTACHMENT B: REQUIRED CITY OF BERKELEY INTAKE ELEMENTS

AGE:

☐ 0 – 5 ☐ 6 – 11 ☐ 12 – 17 ☐ 18 – 24	☐ 25 – 44 ☐ 45 – 54 ☐ 55 - 61 ☐ 62 and over

ETHNICITY (Please also select from the "RACE" options in the next box)

Hispanic / Latino(a): ☐ Yes ☐ No

RACE:

(Single Race Categories)	(Multiple Race Categories)
☐ American Indian / Alaskan Native ☐ Asian ☐ Black / African American ☐ Native Hawaiian / Other Pacific Islander ☐ White	☐ American Indian / Alaskan Native AND Black / African American ☐ American Indian / Alaskan Native AND White ☐ Asian AND White ☐ Black / African American AND White ☐ Other or Multiracial (please specify): _____

OTHER CHARACTERISTICS

Check all that apply:

☐ Female ☐ Male ☐ Other

☐ Single Female Headed Family ☐ Disabled* ☐ Homeless* ☐ Chronically Homeless*

**You must obtain verification or self-certification.*

CURRENT INCOME INFORMATION: (CIRCLE correct income level for the total household)

FY2025	Household Size					
Income Level	1	2	3	4	5	6
Poverty	$15,060	$20,440	$25,820	$31,200	$36,580	$41,960
Extremely Low (to 30% AMI)	$32,700	$37,400	$42,050	$46,700	$50,450	$54,200
Very Low (31-50% AMI)	$54,500	$62,300	$70,100	$77,850	$84,100	$90,350
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Source: HUD User FY 2024 Income Limits Documentation System:
https://www.huduser.gov/portal/datasets/il/il2022/2022summary.odn
Department of Health & Human Services (HHS) 2024 Federal Poverty Level Chart:
https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines

ATTACHMENT B: REQUIRED CITY OF BERKELEY INTAKE ELEMENTS

INCOME CERTIFICATION

Interviewer: ***Check*** *the income level of the client and indicate below the source of information used to verify this information. Please see instruction sheet to help with completion.*

☐ CalWorks ☐ CalFresh ☐ Medi-Cal ☐ Tax Return (most recent return)
☐ SSI** ☐ Payroll Stub** ☐ Bank Statement ☐ Other **_____
(**current-within 2 months)
☐ Self certified. Please explain:
_____

I hereby certify that, to the best of my knowledge, the above statements are true and correct. I understand this information is subject to verification only by authorized HUD (U.S. Department of Housing & Urban Development) and or City of Berkeley officials.

CLIENT	INTERVIEWER
_____	_____
Client Printed Name	**Interviewer Printed Name**
_____	_____
Parent/Client Signature	**Interviewer Signature**
_____	_____
Date	**Date**

Attachment C

Guidance for Contracted Agency:

The City of Berkeley Community Funding program is requiring that that all agencies incorporate a program-specific Consumer Satisfaction Survey during the FY25-28 contract period. The survey shall be administered by your program staff and results entered in your regularly scheduled program reports using City Data Services. Agencies shall upload the survey tool into CDS in the program report. Each program is required to administer and report on the survey data at either the end of the program activities or the end of the program year, whichever comes first. Survey responses should only be provided for Berkeley residents captured in your total number of Berkeley persons served. If your program serves persons who are both Berkeley and non-Berkeley residents you may consider adding a question to the survey asking of the person is a Berkeley resident.

At minimum, all programs shall include **questions 1-4, and one or more** of the program-specific questions. You may choose the program specific questions that best fit your program.

Please contact your Contract Monitor if you have specific concerns or questions related to this based on your program. For example, if your agency works with families as a unit of care, rather than individuals, you may alter the text to best reflect your client base. For example, you may modify question 1 below to say "I am satisfied with the services my family received from this program." Please contact your Contract Monitor if you have questions or need additional guidance.

Sample instructional language to include in your survey:

Please rate how strongly you agree or disagree with each of the following statements. For statements that do not apply to your experience with our program, selected "Does Not Apply". If you do not understand the question, find the wording confusing, or are not sure how to reply, select the "I Do Not Understand This Question" option.

ALL PROGRAMS

Question	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Does Not Apply	I Do Not Understand This Question
1. I am satisfied with the services I have received from this program.							
2. This program's staff treated me with respect.							
3. This program helped me make progress towards my goals.							
4. This program met my needs.							

PROGRAM SPECIFIC QUESTIONS:

CHOOSE **ONE OR MORE** OF THE FOLLOWING TO INCORPORATE INTO YOUR PROGRAM SURVEY:

Question	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Does Not Apply	I Do Not Understand This Question
5. As a direct result of participating in the program I have what I need to maintain my independence.							
6. As a direct result of participating in the program my overall health and wellness has improved.							
7. As a direct result of participating in the program I have what I need to remain housed.							
8. As a direct result of participating in this program my housing situation has improved.							
9. As a direct result of participating in the program I have an increased understanding of community resources and supports.							
10. As a direct result of participating in the program I have enhanced skills and/or knowledge.							
11. As a direct result of participating in the program I have what I need to achieve my educational goals.							

12. As a direct result of participating in the program I have what I need to reach my employment goals.							
13. As a direct result of participating in the program I feel more connected to my community.							
14. As a direct result of participating in the program I feel less isolated.							
15. As a direct result of participating in the program my legal rights have been protected.							
16. As a direct result of participating in the program I am better able to take care of my own needs.							
17. As a direct result of participating in this program I feel more financially secure.							
18. As a direct result of participating in the program I ... (PLEASE WORK WITH CITY STAFF TO IDENTIFY AGREED UPON LANGUAGE FOR YOUR PROGRAM)							
19. Is there anything else you would like to say about your experience with this program?							

NON-DISCRIMINATION/WORKFORCE COMPOSITION

FOR ALL CONTRACTS: 5 OR MORE EMPLOYEES

To assist the City of Berkeley in implementing its Non-Discrimination policy, you're requested to furnish information regarding your personnel, as indicated below, and return this form to the City Department handling your contract.

ORGANIZATION EVICTION DEFENSE CENTER
ADDRESS 350 FRANK H. OGAWA PL #703 OAKLAND CA 94612
BUSINESS LICENSE # BL-030676

You may complete this online & make entries in these cells, they will be automatically totaled at the bottom; or print the form & complete by hand/typewriter.

Occupational Category (see page 2 for definitions)	ALL EMPLOYEES		WHITE		BLACK		ASIAN		HISPANIC		OTHER (specify)**	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Officials/Administrators	2	1	1					1	1			
Professionals	1	2	1	1		1						
Technicians												
Protective Service Workers												
Para-professionals	1	1	1					1				
Offic e/Clerical	1	2						1	1	1		
Skilled Craft Workers												
Service/Maintenance												
Other Occ upation:Specify*												
Totals	5	6	3	1		1		3	2	1		

*Specify other occupation: _____

**Specify other ethnicity: _____

Is your business MBE/WBE/DBE certified? NO If Yes, by what agency? _____

If Yes, please specify: _____ or ethnic identification: _____

Do you have a policy of non-discrimination? YES

Signature _____ Date 7/25/24

Print/Type Name of Signer ANNE OMURA

Verified by _____ Date 8/15/24

City of Berkeley Contract Administrator

Non-Discrimination-Workforce-Composition-Form / Non-Discrimination Form

Rev August 2007

CITY OF BERKELEY
Nuclear Free Zone Disclosure Form

I (we) certify that:

1. I am (we are) fully cognizant of any and all contracts held, products made or otherwise handled by this business entity, and of any such that are anticipated to be entered into, produced or handled for the duration of its contract(s) with the City of Berkeley. (To this end, more than one individual may sign this disclosure form, if a description of which type of contracts each individual is cognizant is attached.)

2. I (we) understand that Section 12.90.070 of the Nuclear Free Berkeley Act (Berkeley Municipal Code Ch. 12.90; Ordinance No. 5784-N.S.) prohibits the City of Berkeley from contracting with any person or business that knowingly engages in work for nuclear weapons.

3. I (we) understand the meaning of the following terms as set forth in Berkeley Municipal Code Section 12.90.130:

   "Work for nuclear weapons" is any work the purpose of which is the development, testing, production, maintenance or storage of nuclear weapons or the components of nuclear weapons; or any secret or classified research or evaluation of nuclear weapons; or any operation, management or administration of such work.

   "Nuclear weapon" is any device, the intended explosion of which results from the energy released by reactions involving atomic nuclei, either fission or fusion or both. This definition of nuclear weapons includes the means of transporting, guiding, propelling or triggering the weapon if and only if such means is destroyed or rendered useless in the normal propelling, triggering, or detonation of the weapon.

   "Component of a nuclear weapon" is any device, radioactive or non-radioactive, the primary intended function of which is to contribute to the operation of a nuclear weapon (or be a part of a nuclear weapon).

4. Neither this business entity nor its parent nor any of its subsidiaries engages in work for nuclear weapons or anticipates entering into such work for the duration of its contract(s) with the City of Berkeley.

Based on the foregoing, the undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Printed Name: ANNE OMURA Title: EXEC DIR

Signature: _____ Date: 7/25/24

Business Entity: EVICTION DEFENSE CENTER

CITY OF BERKELEY
Sanctuary City Compliance Statement

The undersigned, an authorized agent of THE EVICTION DEFENSE CENTER (hereafter "Contractor"), has had an opportunity to review the requirements of Berkeley Code Chapter 13.105 (hereafter "Sanctuary City Contracting Ordinance" or "SCCO"). Contractor understands and agrees that the City may choose with whom it will maintain business relations and may refrain from contracting with any person or entity that provides Data Broker or Extreme Vetting services to the U.S. Immigration and Customs Enforcement Division of the United States Department of Homeland Security ("ICE"). Contractor understands the meaning of the following terms used in the SCCO:

a. "Data Broker" means either of the following:

   i. The collection of information, including personal information about consumers, from a wide variety of sources for the purposes of reselling such information to their customers, which include both private-sector business and government agencies;

   ii. The aggregation of data that was collected for another purpose from that for which it is ultimately used.

b. "Extreme Vetting" means data mining, threat modeling, predictive risk analysis, or other similar services." Extreme Vetting does not include:

   i. The City's computer-network health and performance tools;
   ii. Cybersecurity capabilities, technologies and systems used by the City of Berkeley Department of Information Technology to predict, monitor for, prevent, and protect technology infrastructure and systems owned and operated by the City of Berkeley from potential cybersecurity events and cyber-forensic based investigations and prosecutions of illegal computer based activity.

Contractor understands that it is not eligible to receive or retain a City contract if at the time the Contract is executed, or at any time during the term of the Contract, it provides Data Broker or Extreme Vetting services to ICE.

Contractor further understands and agrees that Contractor's failure to comply with the SCCO shall constitute a material default of the Contract and the City Manager may terminate the Contract and bar Contractor from bidding on future contracts with the City for five (5) years from the effective date of the contract termination.

By executing this Statement, Contractor certifies that it complies with the requirements of the SCCO and that if any time during the term of the Contract it ceases to comply, Contractor will promptly notify the City Manager in writing. Any person or entity who knowingly or willingly supplies false information in violation of the SCCO shall be guilty of a misdemeanor and up to a $1,000 fine.

Based on the foregoing, the undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 25 day of JULY, 2023, at OAKLAND, California.

Printed Name: ANNE OMURA Title: EXEC. DIR

Signed: _____ Date: 7/25/24

Business Entity: EVICTION DEFENSE CENTER

Internal

CITY OF BERKELEY
Living Wage Certification for Providers of Services

TO BE COMPLETED BY ALL PERSONS OR ENTITIES ENGAGING IN A CONTRACT FOR PERSONAL SERVICES WITH THE CITY OF BERKELEY.

The Berkeley Municipal Code Chapter 13.27, Berkeley's Living Wage Ordinance (LWO), provides that contractors who engage in a specified amount of business with the City (except where specifically exempted) under contracts which furnish services to or for the City in any twelve (12) month period of time shall comply with all provisions of this Ordinance. The LWO requires a City contractor to provide City mandated minimum compensation to all eligible employees, as defined in the Ordinance. In order to determine whether this contract is subject to the terms of the LWO, please respond to the questions below. Please note that the LWO applies to those contracts where the contractor has achieved a cumulative dollar contracting amount with the City. Therefore, even if the LWO is inapplicable to this contract, subsequent contracts may be subject to compliance with the LWO. Furthermore, the contract may become subject to the LWO if the status of the Contractor's employees change (i.e. additional employees are hired) so that Contractor falls within the scope of the Ordinance.

Section I.

1. IF YOU ARE A FOR-PROFIT BUSINESS, PLEASE ANSWER THE FOLLOWING QUESTIONS

a. During the previous twelve (12) months, have you entered into contracts, including the present contract, bid, or proposal, with the City of Berkeley for a cumulative amount of $25,000.00 or more?
YES ____ **NO** ____

If **no**, this contract is NOT subject to the requirements of the LWO, and you may continue to Section II. If **yes**, please continue to question **1(b).**

b. Do you have six (6) or more employees, including part-time and stipend workers?
YES ____ **NO** ____

If you have answered, "YES" to questions 1(a) and 1(b) this contract IS subject to the LWO. If you responded "NO" to 1(b) this contract IS NOT subject to the LWO. **Please continue to Section II.**

2. IF YOU ARE A NON-PROFIT BUSINESS, AS DEFINED BY SECTION 501(C) OF THE INTERNAL REVENUE CODE OF 1954, PLEASE ANSWER THE FOLLOWING QUESTIONS.

a. During the previous twelve (12) months, have you entered into contracts, including the present contract, bid or proposal, with the City of Berkeley for a cumulative amount of $100,000.00 or more?
YES X **NO** ____

If no, this Contract is NOT subject to the requirements of the LWO, and you may continue to Section II. If yes, please continue to question 2(b).

b. Do you have six (6) or more employees, including part-time and stipend workers?
YES X **NO** ____

If you have answered, "YES" to questions 2(a) and 2(b) this contract IS subject to the LWO. If you responded "NO" to 2(b) this contract IS NOT subject to the LWO. **Please continue to Section II.**

Section II

Please read, complete, and sign the following:

THIS CONTRACT IS SUBJECT TO THE LIVING WAGE ORDINANCE. ☑
THIS CONTRACT IS NOT SUBJECT TO THE LIVING WAGE ORDINANCE. ☐

Internal

The undersigned, on behalf of himself or herself individually and on behalf of his or her business or organization, hereby certifies that he or she is fully aware of Berkeley's Living Wage Ordinance, and the applicability of the Living Wage Ordinance, and the applicability of the subject contract, as determined herein. The undersigned further agrees to be bound by all of the terms of the Living Wage Ordinance, as mandated in the Berkeley Municipal Code, Chapter 13.27. If, at any time during the term of the contract, the answers to the questions posed herein change so that Contractor would be subject to the LWO, Contractor will promptly notify the City Manager in writing. Contractor further understands and agrees that the failure to comply with the LWO, this certification, or the terms of the Contract as it applies to the LWO, shall constitute a default of the Contract and the City Manager may terminate the contract and bar Contractor from future contracts with the City for five (5) years from the effective date of the Contract termination. If the contractor is a for-profit business and the LWO is applicable to this contract, the contractor must pay a living wage to all employees who spend 25% or more or their compensated time engaged in work directly related to the contract with the City. If the contractor is a non-profit business and the LWO is applicable to this contract, the contractor must pay a living wage to all employees who spend 50% or more or their compensated time engaged in work directly related to the contract with the City.

These statements are made under penalty of perjury under the laws of the state of California.

Printed Name: AMY QUMA Title: EXEC DIR

Signature: _____ Date: 7/25/24

Business Entity: EVICTION DEFENSE CENTER

Contract Description/Specification No: **Project Name/XX-XXXXX** City of Berkeley Housing Retention Program, Contract # 32500038

Section III

- ** * FOR ADMINISTRATIVE USE ONLY -- PLEASE PRINT CLEARLY * * **

I have reviewed this Living Wage Certification form, in addition to verifying Contractor's total dollar amount contract commitments with the City in the past twelve (12) months, and determined that this Contract IS / IS NOT (circle one) subject to Berkeley's Living Wage Ordinance.

HHCS
Department Name

Department Representative

To be completed by Contractor/Vendor

Form EBO-1
CITY OF BERKELEY
CERTIFICATION OF COMPLIANCE WITH EQUAL BENEFITS ORDINANCE

If you are a ***contractor***, return this form to the originating department/project manager. If you are a ***vendor*** (supplier of goods), return this form to the Purchasing Division of the Finance Dept.

SECTION 1. CONTRACTOR/VENDOR INFORMATION

Name: EVICTION DEFENSE CENTER			Vendor No.:
Address: 350 FRANK H. OGAWA PL #703	City: OAKLAND	State: CA	ZIP: 94612
Contact Person: ANNE OMURA		Telephone: 510 452 4541	
E-mail Address: TAMIKO 23 @ SBCGLOBAL.NET		Fax No.: 510 452 4875	

SECTION 2. COMPLIANCE QUESTIONS

A. The EBO is inapplicable to this contract because the contractor/vendor has no employees.
☐ Yes ☒ No *(If "Yes," proceed to Section 5; If "No", continue to the next question.)*

B. Does your company provide (or make available at the employees' expense) any employee benefits?
☒ Yes ☐ No
If "Yes," continue to Question C.
If "No," proceed to Section 5. (The EBO is not applicable to you.)

C. Does your company provide (or make available at the employees' expense) any benefits to the spouse of an employee? ☒ Yes ☐ No

D. Does your company provide (or make available at the employees' expense) any benefits to the domestic partner of an employee? ☒ Yes ☐ No
If you answered "No" to both Questions C and D, proceed to Section 5. (The EBO is not applicable to this contract.)
If you answered "Yes" to both Questions C and D, please continue to Question E.
If you answered "Yes" to Question C and **"No"** to Question D, please continue to Section 3.

E. Are the benefits that are available to the spouse of an employee identical to the benefits that are available to the domestic partner of the employee? ☒ Yes ☐ No
If you answered "Yes," proceed to Section 4. (You are in compliance with the EBO.)
If you answered "No," continue to Section 3.

SECTION 3. PROVISIONAL COMPLIANCE

A. Contractor/vendor is not in compliance with the EBO now but will comply by the following date:

☐ By the first effective date after the first open enrollment process following the contract start date, not to exceed two years, if the Contractor submits evidence of taking reasonable measures to comply with the EBO; or

☐ At such time that administrative steps can be taken to incorporate nondiscrimination in benefits in the Contractor's infrastructure, not to exceed three months; or

☐ Upon expiration of the contractor's current collective bargaining agreement(s).

B. If you have taken all reasonable measures to comply with the EBO but are unable to do so, do you agree to provide employees with a cash equivalent?* ☐ Yes ☐ No

* The cash equivalent is the amount of money your company pays for spousal benefits that are unavailable for domestic partners.

SECTION 4. REQUIRED DOCUMENTATION

At time of issuance of purchase order or contract award, you may be required by the City to provide documentation (copy of employee handbook, eligibility statement from your plans, insurance provider statements, etc.) to verify that you do not discriminate in the provision of benefits.

SECTION 5. CERTIFICATION

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I am authorized to bind this entity contractually. By signing this certification, I further agree to comply with all additional obligations of the Equal Benefits Ordinance that are set forth in the Berkeley Municipal Code and in the terms of the contract or purchase order with the City.

Executed this 25 day of JULY, in the year 2025, at OAKLAND (City), CA (State)

ANNE OMURA
Name (please print)

Signature

EXEC. DIR.
Title

Federal ID or Social Security Number

FOR CITY OF BERKELEY USE ONLY

☐ Non-Compliant (The City may not do business with this contractor/vendor)

☐ One-Person Contractor/Vendor ☒ Full Compliance ☐ Reasonable Measures

☐ Provisional Compliance Category, Full Compliance by Date: _____

Staff Name(*Sign and Print*): Mylette Anderson Date: 8/15/2024

OMB Approval No. 2577-0157 (Exp. 1/31/2027)

Certification of Payments to Influence Federal Transactions

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Public reporting burden for this information collection is estimated to average 30 minutes,including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The information requested is required to obtain a benefit. This form is used to ensure federal funds are not used to influence members of Congress. There are no assurances of confidentiality. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number. Comments regarding the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, Office of Policy Development and Research, RSH, Department of Housing and Urban Development, 451 7th St SW, Room 4176, Washington, DC 20410-5000. When providing comments, please refer to OMB Approval No. 2577-0157.

Applicant Name EVICTION DEFENSE CENTER

Legal Aid / Homeless Prevention / Housing Retention
Program/Activity Receiving Federal Grant Funding

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title
ANNE OMURA	EXEC. DIR
Signature	**Date (mm/dd/yyyy)**
	7/25/24

Previous edition is obsolete

form HUD 50071 (01/14)

Certification for a Drug-Free Workplace

U.S. Department of Housing and Urban Development

EVICTION DEFENSE CENTER
Applicant Name

Legal Aid/ Homeless Prevention/ Housing Retention
Program/Activity Receiving Federal Grant Funding

Acting on behalf of the above named Applicant as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the sites listed below:

I certify that the above named Applicant will or will continue to provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Applicant's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

b. Establishing an on-going drug-free awareness program to inform employees ---

(1) The dangers of drug abuse in the workplace;

(2) The Applicant's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph a.;

d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment under the grant, the employee will ---

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d.(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federalagency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d.(2), with respect to any employee who is so convicted ---

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a. thru f.

2. Sites for Work Performance. The Applicant shall list (on separate pages) the site(s) for the performance of work done in connection with the HUD funding of the program/activity shown above: Place of Performance shall include the street address, city, county, State, and zip code. Identify each sheet with the Applicant name and address and the program/activity receiving grant funding.)

Check here ☐ If there are workplaces on file that are not identified on the attached sheets.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.
Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title
ANNE OMURA	EXEC DIR
Signature	**Date**
X	7/25/24

form HUD-50070 (3/98)
ref. Handbooks 7417.1, 7475.13, 7485.1 & .3

DECLARATION OF COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT

The Americans with Disabilities Act (ADA) requires that private organizations serving the public make their goods, services and facilities accessible to people with disabilities. Furthermore, the City of Berkeley requires that all of its Contractors comply with their ADA obligations and verify such compliance by signing this Declaration of Compliance.

The Contractor certifies that it will comply with the Americans with Disabilities Act by:

A. Adopting policies, practices and procedures that ensure non-discrimination and equal access to Contractor's goods, services and facilities for people with disabilities;

B. Providing goods, services and facilities to individuals with disabilities in an integrated setting, except when separate programs are required to ensure equal access;

C. Making reasonable modifications in programs, activities and services when necessary to ensure equal access to individuals with disabilities, unless fundamental alteration in the nature of the Contractor's program would result;

D. Removing architectural barriers in existing facilities or providing alternative means of delivering goods and services when removal of barriers is cost-prohibitive;

E. Furnishing auxiliary aids to ensure equally effective communication with persons with disabilities; and

F. If contractor provides transportation to the public, by providing equivalent accessible transportation to people with disabilities.

G. Providing the City of Berkeley Grievance Procedure and Policy form(s) to individuals with disabilities who allege they have been discriminated against based on their disability or denied a requested disability accommodation by the Contractor's staff.

The undersigned authorized representative hereby obligates the Contractor to the above stated conditions under penalty of perjury.

EVICTION DEFENSE CENTER	
Company Name	Signature of Authorized Representative
350 FRANK H OGAWA PL #703	ANNE OMURA
Address OAKLAND, CA 94612	Type or Print Name
510 452 4541 7/25/19	EXEC. DIR
Phone Date	Type or Print Title

REV: 6/29/17

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 04/30/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATIONIS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER DOWNEY CAVADIAS & DEANE INC/PHS 57150764 The Hartford Business Service Center 3600 Wiseman Blvd San Antonio, TX 78251	CONTACT NAME: PHONE (A/C, No, Ext): (866) 467-8730 FAX (A/C, No): E-MAIL ADDRESS:
INSURED COLLECTIVE LEGAL SERVICES DBA EVICTION DEFENSE CENTER 350 FRANK H OGAWA PLZ STE 703 OAKLAND CA 94612-2014	INSURER(S) AFFORDING COVERAGE — NAIC# INSURER A : Sentinel Insurance Company Ltd. — 11000 INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED.NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/Y YYY)	LIMITS	
A	COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR [X] General Liability GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [ ] PRO-JECT [X] LOC [ ] OTHER:	X		57 SBA GH1649	05/29/2024	05/29/2025	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$2,000,000 $1,000,000 $10,000 $2,000,000 $4,000,000 $4,000,000
A	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] ALL OWNED AUTOS [ ] SCHEDULED AUTOS [X] HIRED AUTOS [X] NON-OWNED AUTOS			57SBAGH1649	05/29/2024	05/29/2025	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$2,000,000
A	[X] UMBRELLA LIAB [X] OCCUR EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [X] RETENTION $ 10,000			57SBAGH1649	05/29/2024	05/29/2025	EACH OCCURRENCE AGGREGATE	$1,000,000 $1,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N [ ] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A					[ ] PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE -EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Those usual to the Insured's Operations. City of Berkeley Housing and Community Services is an additional insured per the Business Liability Coverage Form SS0008, attached to this policy.

CERTIFICATE HOLDER

City of Berkeley Housing and Community Services
2180 MILVIA ST FL 2
BERKELEY CA 94704-1122

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Susan L. Castaneda

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

POLICY CHANGE

This endorsement changes the policy effective on the Inception Date of the policy unless another date is indicated below:

Policy Number: 57 SBA GH1649 DX

Named Insured and Mailing Address; COLLECTIVE LEGAL SERVICES DBA
EVICTION DEFENSE CENTER
350 FRANK OGAWA PLAZA STE 703
OAKLAND CA 94612

Policy Change Effective Date: 09/06/24 **Effective hour is the same as stated in the Declarations Page of the Policy.**

Policy Change Number: 001

Agent Name: DOWNEY CAVADIAS & DEANE INC/PHS
Code: 150764

POLICY CHANGES:

SENTINEL INSURANCE COMPANY, LIMITED

ANY CHANGES IN YOUR PREMIUM WILL BE REFLECTED IN YOUR NEXT BILLING STATEMENT.IF YOU ARE ENROLLED IN REPETITIVE EFT DRAWS FROM YOUR BANK ACCOUNT, CHANGES IN PREMIUM WILL CHANGE FUTURE DRAW AMOUNTS.
THIS IS NOT A BILL.

NO PREMIUM DUE AS OF POLICY CHANGE EFFECTIVE DATE

PROPERTY OPTIONAL COVERAGES APPLICABLE TO ALL LOCATIONS ARE ADDED

COMPUTERS AND MEDIA COVERAGE
FORM SS 04 41
DEDUCTIBLE: $ 1,000

PRO RATA FACTOR: 0.726

THIS ENDORSEMENT DOES NOT CHANGE THE POLICY EXCEPT AS SHOWN.

POLICY CHANGE (Continued)

Policy Number: 57 SBA GH1649

Policy Change Number: 001

BUSINESS LIABILITY OPTIONAL COVERAGES ARE REVISED

ADDITIONAL INSURED(S) ARE ADDED
THE FOLLOWING ARE ADDITIONAL INSURED FOR BUSINESS LIABILITY COVERAGE IN THIS POLICY.
LOCATION 001 BUILDING 001

VENDOR: SEE FORM IH 12 00

FORM NUMBERS OF ENDORSEMENTS ADDED AT ENDORSEMENT ISSUE:

IH12001185 ADDITIONAL INSURED - VENDOR

POLICY NUMBER: 57 SBA GH1649

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - VENDOR

LOC 001 BLDG 001
THE CITY OF BERKELEY, ITS OFFICERS, EMPLOYEES AND VOLUNTEERS
2180 MILVIA ST FL 2
BERKELEY, CA 94704

CERTIFICATE OF INSURANCE

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not affirmatively or negatively amend, extend, or alter the coverage afforded by the policies below. This certificate of insurance does not constitute a contract between the issuing insurer, authorized representative or producer, and the certificate holder.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy must be endorsed.

PRODUCER INFORMATION	***Issue Date:***	05/23/2024
NLADA Services Corporation	*Contact Name:*	*Dominique Davis*
1901 Pennsylvania Avenue, NW	*Phone number:*	*202-452-9870 ext.832*
Suite 500	*Email address:*	*d.davis@nlada.org*
Washington, DC 20006		

	INSURER(S) AFFORDING COVERAGE	**NAIC #**
Insurer – A	NLADA Mutual Insurance Co., A Risk Retention Group	17336
Insurer - B	Minnesota Lawyers Mutual Insurance Company	42234

Insured: Collective Legal Services, The Eviction Defense Center 350 Frank Ogawa Pl #703 Oakland, CA 94612

This is to certify that the policies of insurance listed below have been issued to the insured named above for the policy period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions, and conditions of such policies. Limits shown may have been reduced by paid claims.

TYPE OF INSURANCE	**POLICY NUMBER**	**EFFECTIVE DATE**	**EXPIRATION DATE**	**LIMITS OF LIABILITY DEDUCTIBLE**	
Lawyers Professional Liability	LPL100520-00	07/07/2023	07/07/2024	$1,000,000	Each Claim
				$1,000,000	Aggregate
				$1,000	Deductible

Additional Comments/Description:

City of Berkeley, Its officers, agents , volunteers and employees are named as Additional Insureds.

Certificate Holder:

City of Berkeley. 2180 Milvia Street Berkeley, CA 94704

Cancellation:

Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions:

1) Ten (10) days written notice of cancellation for nonpayment of premium or deductible; or
2) Thirty (30) days written notice of cancellation for reasons other than nonpayment of premium.

Dominique Davis **Authorized Representative**

NLADA Mutual Insurance Co. A Risk Retention Group

NLADA Mutual Insurance Co., a Risk Retention Group
1901 Pennsylvania Avenue, Suite #500, Washington DC, 20006

NLADA Mutual Insurance Co.
A Risk Retention Group

ADDITIONAL INSURED ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Named Insured: Collective Legal Services, The Eviction Defense Center

Policy Number: LPL100520-00

This endorsement, effective 12:01 AM 7/7/2023 modifies the following:

LAWYERS PROFESSIONAL LIABILITY INSURANCE POLICY
(NLADA Mutual Insurance Co.)

SECTION D - DEFINITIONS, the definition of **Insured**, is replaced by the following:

Insured means:

1. The **named insured**; or
2. Any lawyer, partnership, professional corporation, professional association, limited liability company, limited liability partnership, non-profit entity or governmental agency who was, is or becomes a partner, officer, director, stockholder-employee, associate, manager, member, employee or volunteer of the named **insured** during the **policy period** shown in the Declarations solely while acting in a professional capacity on behalf of the **named insured**; or
3. Any non-lawyer who was or is an employee, independent contractor or volunteer of the **named insured** solely while acting on behalf of the **named insured**; or
4. The **insured's** heirs, assigns, spouse or domestic partner, and legal representatives in the event of the **insured's** death, incapacity or bankruptcy to the extent that the **insured** would have been covered;
5. Any organization which provides funding to the **named insured**, but only to the extent that a **claim** is made against it for a **wrongful act** performed by the **named insured**; however, there shall be no coverage afforded to any such entity as a result of its independent **wrongful acts.**
6. Any entity and any lawyer, employee, member or volunteer of such entity which provides **professional services** at the request of the **named insured** and in support of the **named insured's** rendering of **professional services** to its clients; however, there shall be no coverage afforded to any such entity, lawyer, employee, member or volunteer as a result of independent **wrongful acts.**

Schedule of additional insureds to which this endorsement applies:

Berkeley Rent Stabilization Board
2125 Milvia Street
Berkeley, California 94704

Centro Legal de la Raza
3400 East 12th Street
Oakland, California 94601

County of Alameda
1221 Oak Street, Suite 555
Oakland, California 94612

City of Oakland, ITS COUNCIL MEMBERS, DIRECTORS, OFFICERS, AGENTS, EMPLOYEES AND VOLUNTEERS
One Frank H. Ogawa Plaza
Oakland, California 94612

City of Oakland, Housing and Community Development Department
250 Frank H. Ogawa Plaza, 6th floor
Oakland, California 94612

City of Berkeley, its officers, agents, volunteers and employees
2180 Milvia Street, 2nd floor
Berkeley, California 94704

City of Richmond, Rent Program, Rent Control Board
440 Civic Center Plaza Suite 200
Richmond, California 94804

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

This policy is subject to the following additional Conditions:

A. If this policy is cancelled by the Company, other than for non-payment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

B. If this policy is cancelled by the company for non-payment of premium, or by the insured, notice of such cancellation will be provided within ten (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

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ENDORSEMENT AGREEMENT

STATE COMPENSATION INSURANCE FUND

WAIVER OF SUBROGATION

1483050-24
RENEWAL
NA
2-80-51-83
PAGE 2 OF 2

HOME OFFICE
SAN FRANCISCO

EFFECTIVE FEBRUARY 1, 2024 AT 12.01 A.M.
AND EXPIRING FEBRUARY 1, 2025 AT 12.01 A.M.

ALL EFFECTIVE DATES ARE AT 12:01 AM PACIFIC STANDARD TIME OR THE TIME INDICATED AT PACIFIC STANDARD TIME

COLLECTIVE LEGAL SERVICES INC.
EVICTION DEFENSE CENTER
350 FRANK H OGAWA PLZ STE 703
OAKLAND, CA 94612

ANYTHING IN THIS POLICY TO THE CONTRARY NOTWITHSTANDING, IT IS AGREED THAT THE STATE COMPENSATION INSURANCE FUND WAIVES ANY RIGHT OF SUBROGATION AGAINST,

CITY OF BERKELEY

WHICH MIGHT ARISE BY REASON OF ANY PAYMENT UNDER THIS POLICY IN CONNECTION WITH WORK PERFORMED BY,

COLLECTIVE LEGAL SERVICES INC.
EVICTION DEFENSE CENTER

IT IS FURTHER AGREED THAT THE INSURED SHALL MAINTAIN PAYROLL RECORDS ACCURATELY SEGREGATING THE REMUNERATION OF EMPLOYEES WHILE ENGAGED IN WORK FOR THE ABOVE EMPLOYER.

IT IS FURTHER AGREED THAT PREMIUM ON THE EARNINGS OF SUCH EMPLOYEES SHALL BE INCREASED BY 03%.

NOTHING IN THIS ENDORSEMENT SHALL BE HELD TO VARY, ALTER, WAIVE OR EXTEND ANY OF THE TERMS, CONDITIONS, AGREEMENTS, OR LIMITATIONS OF THIS POLICY OTHER THAN AS ABOVE STATED. NOTHING ELSEWHERE IN THIS POLICY SHALL BE HELD TO VARY, ALTER, WAIVE OR LIMIT THE TERMS, CONDITIONS, AGREEMENTS OR LIMITATIONS IN THIS ENDORSEMENT.

COUNTERSIGNED AND ISSUED AT SAN FRANCISCO: FEBRUARY 2, 2024

AUTHORIZED REPRESENTATIVE

PRESIDENT AND CEO

2570
SCIF FORM 10217 (REV.4-2018)

CERTHOLDER COPY

NA

STATE COMPENSATION INSURANCE FUND

P.O. BOX 8192, PLEASANTON, CA 94588

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

ISSUE DATE: 05-22-2024

GROUP:
POLICY NUMBER: **1483050-2024**
CERTIFICATE ID: **33**
CERTIFICATE EXPIRES: **02-01-2025**
02-01-2024/02-01-2025

CITY OF BERKELEY **NA**
2180 MILVIA ST FL 2
BERKELEY CA 94704-1122

This is to certify that we have issued a valid Workers' Compensation Insurance policy in a form approved by the California Insurance Commissioner to the employer named below for the policy period indicated.

This policy is not subject to cancellation by the Fund except upon **30** days advance written notice to the employer.

We will also give you **30 days advance notice should this policy be cancelled prior to its normal expiration.**

This certificate of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policy listed herein. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate of insurance may be issued or to which it may pertain, the insurance afforded by the policy described herein is subject to all the terms, exclusions, and conditions, of such policy.

Authorized Representative

President and CEO

EMPLOYER'S LIABILITY LIMIT INCLUDING DEFENSE COSTS: $1,000,000 PER OCCURRENCE.

ENDORSEMENT #0015 ENTITLED ADDITIONAL INSURED EMPLOYER EFFECTIVE 2024-02-01 IS ATTACHED TO AND FORMS A PART OF THIS POLICY. NAME OF ADDITIONAL INSURED: CITY OF BERKELEY

ENDORSEMENT #2065 ENTITLED CERTIFICATE HOLDERS' NOTICE EFFECTIVE 02-01-2024 IS ATTACHED TO AND FORMS A PART OF THIS POLICY.

ENDORSEMENT #2570 ENTITLED WAIVER OF SUBROGATION EFFECTIVE 2024-02-01 IS ATTACHED TO AND FORMS A PART OF THIS POLICY. THIRD PARTY NAME: CITY OF BERKELEY

ENDORSEMENT #2572 ENTITLED BLANKET WAIVER OF SUBROGATION EFFECTIVE 2024-02-01 IS ATTACHED TO AND FORMS A PART OF THIS POLICY

EMPLOYER

COLLECTIVE LEGAL SERVICES, INC. THE EVICTION DEFENSE CENTER A NON-PROFIT
350 FRANK H OGAWA PLZ STE 703
OAKLAND CA 94612

[JG3,CS]

(REV.7-2014)

PRINTED : 05-22-2024

RESOLUTION NO. 71,433-N.S.

ADOPTING THE CITY OF BERKELEY BIENNIAL BUDGET FOR FISCAL YEARS 2025 and 2026

WHEREAS, on May 21, 2024, the City Manager presented to the City Council the Fiscal Years 2025 and 2026 ("FY 2025 and FY 2026") Proposed Biennial Budget; and

WHEREAS, the City Council held a series of meetings to consider the Proposed Biennial Budget on May 21, 2024, June 4, 2024 and June 25, 2024; and

WHEREAS, members of the City Council presented recommended revisions to the Proposed Biennial Budget at the Council meeting on June 25, 2024;

WHEREAS, in addition to formal budget adoption, City Council action is required to authorize advances for select community agencies receiving funds in FY 2025. The advances are to be equivalent to 25% of the agency's allocation; and

NOW THEREFORE, BE IT RESOLVED, that the Council of the City of Berkeley adopts the FY 2025 and FY 2026 Budget contained in the City Manager's FY 2025 and FY 2026 Proposed Budget and as amended by subsequent Council action on June 25, 2024.

BE IT FURTHER RESOLVED that the appropriations constituting the FY 2025 Adopted Budget will be reflected in a separate FY 2025 Annual Appropriation Ordinance, as required by the City Charter.

BE IT FURTHER RESOLVED, that the City Manager is authorized to execute contracts and /or amendments, as necessary, to provide advances to selected community agencies receiving City funds in FY 2025.

BE IT FURTHER RESOLVED, that the City Manager is authorized to use the following invoicing/reporting system in contract administration, but maintains the discretion to amend these requirements depending on risk factors associated with past performance, the amount and type of funding an agency receives, and/or whether or not an agency is a new grantee:

Agencies receiving under $50,000 in General Fund to provide the following services:

1. Drop-In services only with no intensive case management, meal programs, outreach programs, or recreation programs:
    - Statements of Expense are required quarterly and a General Ledger is required at fiscal year-end; and
    - An end-of-year narrative summary of accomplishments.

2. All other agencies receiving General Fund only:
    - Statements of Expense are required quarterly and a General Ledger is required at fiscal year-end; and
    - Program Reports are required semi-annually.

3. Agencies with State and/or Federal Funding:
    - Statements of Expense are required quarterly and a General Ledger is required at fiscal year-end; and
    - Program Reports are required quarterly.

BE IT FURTHER RESOLVED that the City Manager or her designee is authorized to use the following invoicing/reporting system in contract administration for contracts awarded through the Youth Equity Partnership and the invoicing/reporting system described in City Council Resolution No. 71,278-N.S. for other agencies awarded federal and non-federal funding. The following invoicing/reporting system pertains only to agencies awarded contracts through the Youth Equity Partnership:

Fiscal Reports (*Youth Equity Partnership*):

- All agencies, regardless of funding level, are required to submit quarterly statements of expense and quarterly requests for advance payment. The final statement of expense for each fiscal year must be accompanied by a copy of the agency's General Ledger and a Statement of Revenues and Expenditures for each program.
- Four fiscal reports due by: October 15 (Q1, for the period of July 1 – September 30), January 15 (Q2, for the period of October 1 – December 31), April 15 (Q3, for the period of January 1 – March 31) and August 31 (Q4, for the period of April 1 – June 30).
- Four advance payment requests due by: July 8 (Q1, for the period of July 1 – September 30), October 15 (Q2, for the period of October 1 – December 31), January 15 (Q3, for the period of January 1 – March 31) and April 15 (Q4, for the period of April 1 – June 30).

Program Reports (*Youth Equity Partnership*):

- Two program reports, due by January 15 (1st half report, for the period of July 1 – December 31) and July 15 (2nd half report, for the period of January 1 – June 30).

BE IT FURTHER RESOLVED that the City Manager or her designee is authorized to approve advance payments to agencies awarded contracts through the Youth Equity Partnership, pending timely, complete, and accurate agency submission. City review

and approval of fiscal and program reports is required before each payment will be released.

BE IT FURTHER RESOLVED that the City Manager or designee is authorized to maintain the discretion of requiring more frequent invoices and reports from new grantees or in contracts deemed to require closer scrutiny, and also maintains the discretion to terminate contracts based on factors outlined in the contract boilerplate, including but not limited to, the contractor's failure to fulfill obligations.

BE IT FURTHER RESOLVED, that the City Manager is authorized to refuse to execute or amend a contract with any agency that has not provided required contract exhibits and documentation within 60 days of award of funding.

BE IT FURTHER RESOLVED, that the City Manager is authorized to execute other resultant agreement and amendments with other agencies relating to receipt and expenditure under CDBG or CSBG Program in accordance with the proposals for community agency funding approved through the budget process. A record copy of said contracts and any amendments are on file with the Office of the City Clerk.

The foregoing Resolution was adopted by the Berkeley City Council on June 25, 2024 by the following vote:

Ayes: Bartlett, Hahn, Humbert, Kesarwani, Lunaparra, Taplin, Tregub, Wengraf, and Arreguin.

Noes: None.

Absent: None.

Susan Wengraf, Mayor Pro Tempore

Attest: _____
Mark Numainville, City Clerk

FY 2025 Community Agency Allocations

Agency/Individual Name	FY 2024 Adopted	FY 2025 Adopted	CDBG*	CSBG*	ESG*	GF Measure P	GF Measure U1	General Fund (GF)	GF Mayor's Reimagining Public Safety	Other Funds
Arts										
Berkeley Art Center	86,652	86,652						86,652		
Civic Arts Grants	500,000	500,000						500,000		
Arts Total	**586,652**	**586,652**						**586,652**		
Childcare										
Bay Area Hispano Institute for Advancement - Child Development Program	82,143	150,000						145,575		4,425
BANANAS Incorporated										
Child Care Subsidies	283,110	0						0		0
Play & Learn Playgroups	10,527	0								
QRIS Services	95,000	43,333						43,333		
Big Oaks Learning Center Inc - Childcare Program	45,507	102,623						98,198		4,425
Healthy Black Families, Inc										
Sisters Together Empowering Peers (STEP)	87,616	90,000						90,000		
Nia House Learning Center	39,999	100,000						95,575		4,425
Childcare Total	**643,902**	**485,956**						**472,681**		**13,275**
Community Facilities Improvements										
Rebuilding Together East Bay- North										
Community Facility Improvement	24,575	93,780	93,780							
HHCS Public Facility Improvements NOFA	656,805	132,905	132,905							
Community Facilities Improvements Total	**681,380**	**226,685**	**226,685**					**0**		
Community Media										
Berkeley Community Media	285,210	285,210						267,710		17,500
Community Media Total	**285,210**	**285,210**						**267,710**		**17,500**
Disability Programs										
Bay Area Outreach and Recreation Program										
Recreational Services for the Disabled	43,592	50,592						50,592		
Berkeley Place	17,183	0								
Easy Does It	1,653,260	1,712,079								1,712,079
Through the Looking Glass	27,206	35,000						35,000		
Disability Programs Total	**1,741,241**	**1,797,671**						**85,592**		**1,712,079**
Economic Development										
Berkeley Convention and Visitors Bureau	697,882	740,277						740,277		
Economic Development Total	**697,882**	**740,277**						**740,277**		
Employment Training										
BANANAS Incorporated - Berkeley Launchpad		50,000						50,000		
Bread Project	57,850	70,000						70,000		
Inter-City Services	101,351	101,351						101,351		
Multicultural Institute - Lifeskills Program	68,136	82,500						82,500		
Rising Sun Center for Opportunity	67,828	50,000						50,000		
Employment Training Total	**295,165**	**353,851**						**353,851**		
Health										
Bonita House - Berkeley Wellness Center	15,324	0								
Lifelong Medical Care										
Access for Uninsured (BPC, WBFP, Uninsured, Acupuncture Detox Clinic)	189,855	189,855		160,000				29,855		
Geriatric Care/Hypertension	114,543	114,543						114,543		
Berkeley Free Clinic										
Free Women and Transgender Health Care Service	15,858	0								
Sugar - Sweetened Beverage Berkeley Unified School District	712,000	712,000						712,000		
Sugar - Sweetened Beverage Panel (POE)**	712,000	712,000						712,000		
Health Total	**1,744,256**	**1,728,398**		**160,000**				**1,568,398**		
Homeless Services										
Alameda County Homeless Action Center										
SSI Advocacy	129,539	129,539						109,539		20,000
Rapid Rehousing for Homeless Elders Project	68,220	0								
Alameda County Housing & Community										
HMIS Support	6,676	6,676			6,676					
Peer Wellness Collective										
Daytime Drop-In	35,721	0								
Representative Payee Services	32,016	32,016						32,016		
Locker Program	50,000	0								
Bay Area Community Services										
North County HRC	2,181,785	2,281,785	418,921			1,235,411	100,000	527,453		
STAIR Pathways	2,707,867	2,216,210			213,442	2,002,768				
Bonita House										
Case Management Tied to Permanent Housing	24,480	0								
Building Opportunities for Self Sufficiency										
BOSS House Navigation Team	86,831	86,831						86,831		
Representative Payee Services	52,440	52,440						52,440		
Ursula Sherman Village Families Program	51,383	51,383						51,383		
Ursula Sherman Village Singles Shelter	104,662	104,662						104,662		
Step Up Housing (1367 University)	1,133,244	0								
City of Berkeley EveryOne Home	23,837	23,837						23,837		
Dorothy Day										
Berkeley Emergency Storm Shelter	350,000	358,750				358,750				
Drop In Center	182,000	206,701						206,701		
Dorothy Day House Shelter (Vets Building)	566,000	580,150				580,150				
Horizon	950,000	950,000				950,000				
Inclement Weather Shelter	290,000	290,000						290,000		
Downtown Berkeley Association										
Homeless Outreach Worker	40,000	40,000				40,000				
Downtown Streets Team	225,000	225,000				225,000				
Insight Housing										
Case Management Tied to Permanent Housing	100,190	136,946						136,946		
Men's Shelter	170,502	267,897						170,502		97,395
Hope Center - No Place Like Home (NPLH)	95,000	95,000						95,000		
Russell Street Supportive Housing Program	630,000	0								
Women's Shelter	119,963	521,025						119,963		401,062
Interim Housing/Shelter (Respite)	88,000	251,794						251,794		
Larkin Street Youth Services										
Turning Point	189,255	189,255						189,255		
Lifelong Medical Care										
Case Management Tied to Permanent Housing	163,644	163,644						163,644		
Supportive Housing Program UA Homes	55,164	102,829						102,829		
Street Medicine / Trust Clinic	525,000	525,000				525,000				
Maudelle Miller Shirek Affordable Housing		61,200				61,200				
Options Recovery Services - Detox Services & Day Treatment										
Transitional Housing and Case Management	50,000	0								
Telegraph Business Improvement District										
Berkeley Host Program	49,139	49,139						49,139		
The Suitcase Clinic	9,828	0								
Toolworks, Inc Supportive Housing	47,665	0								

FY 2025 Community Agency Allocations

Agency/Individual Name	FY 2024 Adopted	FY 2025 Adopted	CDBG*	CSBG*	ESG*	GF Measure P	GF Measure U1**	General Fund (GF)	GF Mayor's Reimagining Public Safety	Other Funds
The Village of Love										
Sacred Rest Drop In Center	250,000	250,000								250,000
Women's Daytime Drop-In Center										
Bridget Transitional House Case Management	118,728	118,728						118,728		
Daytime Drop-In Services	48,153	48,153						48,153		
Homeless Case Management - Housing Retention	100,190	100,190						100,190		
Youth Spirit Artworks										
TAY Tiny Homes Case Management	78,000	0								
Homeless Services Total	**12,180,122**	**10,516,780**	**418,921**		**220,118**	**5,978,279**	**100,000**	**3,031,005**		**768,457**
Housing Development & Rehabilitation										
Bay Area Community Land Trust	5,200	5,200						5,200		
Organizational Capacity Building	200,000	200,000					200,000			
Center for Independent Living										
Residential Access	159,660	211,600	211,600							
CHDO Programs	Refer to HTF/CHDO	Refer to HTF/CHDO								
Habitat for Humanity East Bay/Silicon Valley, Inc										
Housing Rehabilitation Grant Program	250,000	154,280	154,280							
Rebuilding Together East Bay - North										
Safe at Home Program	98,275	114,164						114,164		
Housing Development & Rehabilitation Total	**713,135**	**685,244**	**365,880**				**200,000**	**119,364**		
Legal/Advocacy										
East Bay Community Law Center										
Consumer Justice Clinic/Housing Advocacy	33,644	48,556						48,556		
Tenant Legal Counseling, Representation & Problem Solving	275,000	275,000					275,000			
Eden Council for Hope and Opportunity	35,000	35,000	35,000							
Eviction Defense Center										
Tenant Legal Counseling, Representation & Problem Solving	275,000	275,000					275,000			
Housing Retention	3,250,000	797,139					250,000			547,139
Family Violence Law Center - Domestic Violence & Homelessness Prevention Project	61,842	75,000						75,000		
Legal/Advocacy Total	**3,930,486**	**1,505,695**	**35,000**				**800,000**	**123,556**		**547,139**
Other										
Animal Rescue	35,000	35,000						35,000		
Berkeley Community Gardening Collaborative	11,895	19,720						19,720		
Berkeley Project	32,000	0								
Community Agency Publishing Outcomes Project	25,000	0								
Eden Information & Referral	35,000	35,000						35,000		
McGee Avenue Baptist Church	17,844	0								
SEEDS Community Resolution Center	22,553	0								
Other Total	**179,292**	**89,720**						**89,720**		
Recreation										
Ephesians Children's Center - Greg Brown Park Supervision	18,573	18,573						18,573		
Recreation Total	**18,573**	**18,573**						**18,573**		
Seniors										
J-Sei	9,110	30,000						30,000		
Seniors Total	**9,110**	**30,000**						**30,000**		
Youth										
Bay Area Community Resources										
School Based Behavioral Health Services	94,964	0								
Bay Area Hispano Institute for Advancement - Out of School Time Programs	21,447	36,541						36,541		
Berkeley Community Scholars		35,000						35,000		
Berkeley High School Bridge Program	79,000	134,328						134,328		
Berkeley Public Schools Fund										
Black Girls United in BUSD Middle & High Schools		47,817						47,817		
Identity-affirming Youth Development Programs @ Longfellow Middle School		25,300						25,300		
Berkeley Youth Alternatives										
Afterschool Program	30,000	30,000						30,000		
Counseling	30,000	30,000						30,000		
Counseling Center to meet demand for mental health services	125,000	125,000							125,000	
Summer Jam Day Camp	35,000	35,000							35,000	
Big Oaks Learning Center Inc - Big Oaks Learning Center	39,840	39,840						39,840		
Biotech Partners – Biotech Academy at Berkeley High	91,750	150,000						150,000		
Healthy Black Families - Next Steps - Village Cultural Academy		150,000						150,000		
Lifelong Medical Care										
Rosa Parks Collaborative	44,804	0								
McGee Ave Baptist Church Voices Against Violence	50,000	50,000						50,000		
Multicultural Institute Mentoring for Academic Success (MAS)	33,603	50,000						50,000		
Pacific Center for Human Growth - Safer Schools Project	23,245	0								
RISE Program	216,039	229,328						229,328		
Stiles Hall	90,000	100,000						100,000		
Supplybank.Org (Formerly K to College)	30,000	35,000						35,000		
Through The Looking Glass - Parenting Education and Kindegarten Readiness	25,000	0								
UC Berkeley										
BUILD Literacy/Cal Corp	95,360	100,000						100,000		
Bridging Berkeley	34,640	40,000						40,000		
YMCA of the East Bay - Y-Scholars Program		0								
Y- Scholars Program	40,000	0								
School Readiness Program	50,875	0								
Youth Total	**1,280,567**	**1,443,154**						**1,283,154**	**160,000**	
TOTAL COMMUNITY AGENCY ALLOCATIONS	**24,986,973**	**20,493,866**	**1,520,386**	**160,000**	**220,118**	**5,978,279**	**1,100,000**	**8,770,533**	**160,000**	**3,058,450**

* Federal funds from HUD for Community Development Block Grant (CDBG), Community Services Block Grant (CSBG) and Emergency Solutions Grant (ESG)
**Subject to the Sugar – Sweetened Beverage Panel of Experts (POE) allocation.

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e.g. 123456789, Smith Corp

"collective legal services" ×

"Eviction Defense Center" ×

Classification
Excluded Individual
Excluded Entity
Federal Organizations
Exclusion Type
Exclusion Program
Location
Dates

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Internal

Health Housing and
Community Services Department
Housing & Community Services Division

COMMITMENT TO PARTICIPATE IN EVALUATION

The City of Berkeley is committed to demonstrating how investments of public dollars improve the wellbeing of our residents. The Health, Housing & Community Services Department (HHCS) at the City is also committed to finding ways to deepen our positive impact on the community, especially for those most vulnerable. During the upcoming contract cycle (FY 2025 – 2028) the Community Funding Program, led by the HHCS Department and in partnership with the City Manager's office, will be working with community agency contractors to strengthen how funded service providers demonstrate the impacts of their services and activities. This work will provide a common language and method to better understand, communicate, and ultimately strengthen our programs. The City will also identify ways to aggregate these results and share them with the broader community. Our agency understands the importance of this undertaking and staff is committed to supporting this work for the duration of the contracted period.

As the authorized signatory of Eviction Defense Center, I agree to the following term under the FY 2025 - 20238 Community Agency award under the Health, Housing, and Community Services Agreement authorized by the Berkeley City Council on June 25, 2024.

I commit to participate in and provide resources (i.e. service measure and outcome refinement, additional data collection, point person for coordination, etc.) for the ongoing program-wide Community Funding Program evaluation.

I also am aware and agree that the City may publish full or partial report information, including, but not limited to, publishing performance data on the City's website.

By: ANNE OMURA
(print name)

Signature: _____

Title: EXEC. DIR

Date: 7/29/24

Health, Housing, and
Community Services Department
Housing & Community Services Division

CITY OF BERKELEY

COMMUNITY AGENCY
ADVANCE PAYMENT TERMS AND CONDITIONS

As the authorized representative of Eviction Defense Center I agree to the following terms and conditions of receipt of the payment under the Contract Agreement to be authorized by the Berkeley City Council on June 25, 2024.

1. The Contractor shall use this payment for the operation costs as specified in the forthcoming contract agreement.

2. The Contractor agrees to abide by the City regulations governing the project, including all terms and conditions outlined in the forthcoming contract agreement.

I, the undersigned as an authorized representative of Eviction Defense Center acknowledge receipt of $3,188,556.00 and agree to the above terms as a condition of receipt of this payment under the Contract Agreement with the City of Berkeley for FY 2025 Community Development Block Grant, Emergency Shelter Grant, HOME Investment Partnership American Rescue Plan, Community Services Block Grant, California Homeless Housing, Assistance and Prevention, City of Berkeley General Funds, Measure P, and Measure E Funds allocations by the Berkeley City Council.

By: ANNE OMDIA
(print name)

Signature: _____

Title: EXEC.

Date: 7/25/24

Measure U1 Budget and Forecast

		FY 2024 Actuals	FY 2025 Adopted	FY 2025 Projected	FY 2026 Adopted	FY 2026 Estimate	FY 2027 Estimate	FY 2028 Estimate	FY 2029 Estimate
	Revenues								
	Beginning Fund Balance	**$14,800,640**	**7,399,686**	**7,399,686**	**7,722,569**	**7,722,569**	**569,283**	**7,069,283**	**13,569,283**
	ADD: U1 Fund Balance transferred from the General Fund								
	ADD: Revenues	**6,844,565**	**6,500,000**	**6,500,000**	**6,500,000**	**6,500,000**	**6,500,000**	**6,500,000**	**6,500,000**
	Total Revenues and Available Fund Balance	**21,645,205**	**13,899,686**	**13,899,686**	**14,222,569**	**14,222,569**	**7,069,283**	**13,569,283**	**20,069,283**
	LESS: Budgeted Total Expenses	**14,245,519**	**6,142,668**	**6,177,117**	**5,798,189**	**5,798,189**			
	LESS: Unbudgeted Total Expenses					**7,855,097**	**5,772,302**	**5,880,917**	**5,994,963**
	Personnel Costs [2]	*811,199*	*1,978,930*	*1,852,644*	*2,068,859*	*2,062,254*	*2,172,302*	*2,280,917*	*2,394,963*
	HHCS (Measure O/Housing Trust Fund, Staffing Study phase 1/2))	485,979	1,149,985	983,662	1,235,000	1,213,836	1,296,750	1,361,588	1,429,667
	HHCS Staffing Study Phase 2 [3]		411,593		411,593	411,593	432,173	453,781	476,470
	HHCS Staffing Study Phase 3						-	-	-
	Empty Homes Tax Staffing Costs & Admin Costs [4]	94,650		624,975					
	Finance (Rev Dev Position & Admin Costs)	230,570	417,352	244,007	422,266	436,825	443,379	465,548	488,826
	Non-Personnel and Other Program Costs	13,434,320	4,163,738	4,324,473	3,729,330	11,591,032	3,600,000	3,600,000	3,600,000
	Small Sites/Community Land Trusts								
1	1638 Stuart/Small Sites loan (BACLT) -Contract # 31900285	-	-		-		-	-	-
2	2321-2323 10th St. loan (NCLT) - Contract # 32100097		-		-	562,174	-	-	-
3	California Street			3,103,331					
4	1685 Solano / Small Sites (BACLT) pending request	250,000							
5	Small Sites Allocations (excludes Pproject specific commitments	-	-		-		-	-	-
6	Blake Apartments								
7	**Housing Trust Fund**	-	-		-		-	-	-
8	2001 Ashby predev (RCD) - Contract # 32000049	-	-		-		-	-	-
9	2527 San Pablo Ave (SAHA) - Contract pending	-	-		-		-	-	-
10	2012 Berkeley Way reserves (BRIDGE/BFHP) - Contract #32000250	3,023,365	-		-		-	-	-
11	Housing Trust Fund Program [7]						2,500,000	2,500,000	2,500,000
12	HTF Small Sites		2,500,000		2,500,000	2,500,000			
13	Additional funds for Small Sites		603,331		603,331				
14	MLK House			121,142		1,879,846			
15	1740 San Pablo					4,496,669			
16	Ephesians					499,012			
17	Housing Trust Fund Program allocations (exludes project specific commitments)					553,331			
18	"transfer" (NEW) allocation to the HTF								
	Development of New Housing Programs								
19	Capacity Building for Emerging Developers			200,000		200,000	200,000	200,000	200,000
20	Berkeley Unified School District Planning Grant	-	-		-		-	-	-
21	New Housing Programs/Land Trust/Coops	48,455	-		-		-	-	-
22	Review and Develop a Social Housing policy (Councilmember Taplin, Mayor Arreguin, Councilmembers Harrison and Hahn)	-	-		-		-	-	-
23	**Anti-Displacement**								
24	Rent Board (EDC & EBCLC)	-	550,000	550,000	550,000	550,000	550,000	550,000	550,000
25	East Bay Community Law Center (EBCLC)	-							
26	Housing Retention Program (EBCLC)	-							
27	Eviction Defense Center (EDC)	112,500	38,407	250,000		250,000	250,000	250,000	250,000

Measure U1 Budget and Forecast

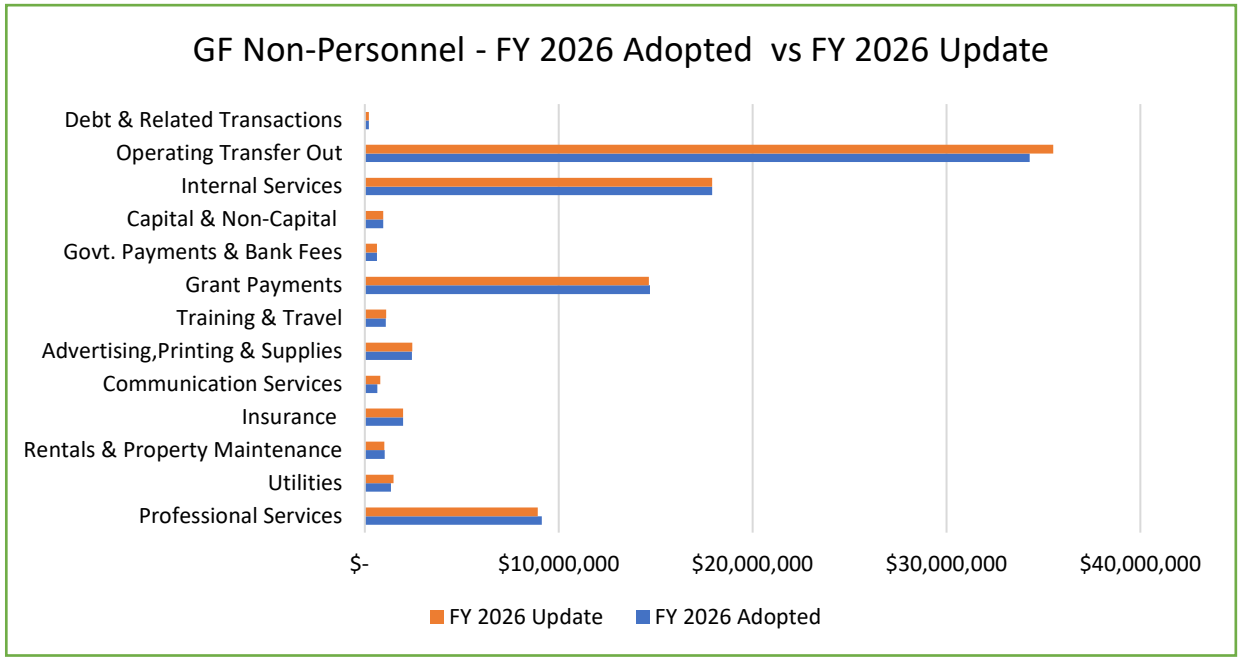
		FY 2024 Actuals	FY 2025 Adopted	FY 2025 Projected	FY 2026 Adopted	FY 2026 Estimate	FY 2027 Estimate	FY 2028 Estimate	FY 2029 Estimate
28	Housing Retention Program / Eviction Defense								
29	Flexible Housing Subsidy Pool (BACS)	-	100,000	100,000	75,999	100,000	100,000	100,000	100,000
	Additional City Priorities								
30	Berkeley Relief Fund	-	-		-		-	-	-
31	Landlord Incentives for Section 8 Participation	-	-		-		-	-	-
32	1001, 1011 University Ave. acquisition	-	-		-		-	-	-
33	Project Homekey Reservation (Round 3)	8,500,000							
34	West Berkeley Shellmound/1900 Fourth Street acquisition	1,500,000							
35	Transfer to Housing Trust Fund per court order								
36	Empty Homes Tax		372,000						
37	Encampment Resolution Fund 2 Grant Match- Insight Housing/Super 8 [5]								
38	Encampment Resolution Fund 3 Grant Match- Dorothy Day House/ Howard Johnson [6]				-				
	Fiscal Year Surplus (Shortfall)	**(7,400,954)**	**357,332**	**322,883**	**701,811**	**(7,153,286)**	**727,698**	**619,083**	**505,037**
	Ending Fund Balance	**7,399,686**	**7,757,018**	**7,722,569**	**8,424,380**	**569,283**	**7,069,283**	**13,569,283**	**20,069,283**

Notes:

FY 2024 - FY 2026 General Fund Non-Personnel Expense Comparison

Categories	FY 2024 Actuals	FY 2025 YTD Actuals*	FY 2026 Adopted	FY 2026 Update	FY 2026 Variance	% Inc./Dec.
Professional Services	$ 14,293,796	$ 15,053,274	$ 9,119,826	$ 8,922,447	$ (197,379)	-2.16%
Utilities	$ 2,091,128	$ 1,822,283	$ 1,348,204	$ 1,473,204	$ 125,000	9.27%
Rentals & Property Maintenance	$ 1,825,547	$ 2,334,649	$ 1,021,213	$ 997,838	$ (23,376)	-2.29%
Insurance	$ 2,460,657	$ 2,741,342	$ 1,978,718	$ 1,978,718	$ -	0.00%
Communication Services	$ 783,390	$ 741,489	$ 647,442	$ 803,425	$ 155,983	24.09%
Advertising,Printing & Supplies	$ 2,940,017	$ 2,331,204	$ 2,431,621	$ 2,444,965	$ 13,344	0.55%
Training & Travel	$ 1,502,461	$ 1,258,558	$ 1,089,782	$ 1,106,581	$ 16,798	1.54%
Grant Payments	$ 16,562,151	$ 13,423,572	$ 14,698,871	$ 14,647,371	$ (51,500)	-0.35%
Govt. Payments & Bank Fees	$ 858,392	$ 910,099	$ 621,709	$ 621,709	$ -	0.00%
Capital & Non-Capital	$ 5,104,092	$ 4,642,287	$ 945,867	$ 948,242	$ 2,375	0.25%
Internal Services	$ 18,843,436	$ 16,409,152	$ 17,916,585	$ 17,918,757	$ 2,172	0.01%
Operating Transfer Out	$ 61,736,925	$ 19,118,470	$ 34,287,109	$ 35,504,790	$ 1,217,681	3.55%
Debt & Related Transactions	$ 4,740,961	$ 640,669	$ 200,000	$ 200,000	$ -	0.00%
Total	**$ 133,742,954**	**$ 81,427,048**	**$ 86,306,947**	**$ 87,568,046**	**$ 1,261,099**	

* *2025 Actuals as of 05/14/2025*



03

FY26 Mid-Biennial Update
Preliminary Budget Status

Budget and Finance Policy Committee

24 April 2025

AGENDA

1. Situational Overview
2. Fiscal Challenges
3. Citywide All Funds Summary
4. General Fund Summary
5. Budget Balancing Options
6. Next Steps and Timeline
7. Discussion- **Seeking Preliminary Recommendations on Strategies**

SITUATIONAL OVERVIEW

Reliance on one-time resources / actions

- Vacancies (hiring freeze, salary savings)
- Project deferrals
- Use of fund balance and resources
- Federal resources deployed

Resource Constraints

- Available resources **<** Need

Federal and economic uncertainty

- Status of federal grants?
- Increased costs and supply and demand issues?
- Probability of a recession?

FISCAL CHALLENGES

Operating / Other Funds (not exhaustive)

- General Fund
- Grant Funds (Federal and State pass thru funds)
- Parking Funds
- Marina Fund
- Camps Fund
- Internal Service Funds (Building Maintenance and Vehicles)
  - **Special revenue and enterprise funds cannot assist General Fund however the General Fund is the backstop for struggling funds**

Deferred Maintenance

- Buildings
- Fleet
- Technology infrastructure
- Streets / Roads

FY26 PRELIMINARY UPDATE STATUS

	2026 Adopted	2026 Adopted Update	Variance	% Inc/Dec
All FUNDS Revenue	698,663,104	695,897,660	2,765,444	0.40%
All FUNDS Expense	783,017,117	835,650,081	52,632,964	6.72%
Delta	**(84,354,014)**	**(139,752,421)**	**(55,398,407)**	**65.67%**
GF Revenue	284,047,716	284,047,716	-	0.00%
GF Expense	296,120,769	316,030,859	19,910,090	6.72%
Delta	**(12,073,053)**	**(31,983,143)**	**(19,910,090)**	**164.91%**
All FUNDS Personnel	390,853,568	428,926,104	38,072,536	9.74%
All FUNDS Non-Personnel	392,163,549	406,723,978	14,560,429	3.71%
Total	**783,017,117**	**835,650,082**	**52,632,965**	**6.72%**
GF Personnel	192,772,863	216,454,592	23,681,729	12.28%
GF Non-Personnel	103,347,906	99,576,267	(3,771,639)	-3.65%
Total	**296,120,769**	**316,030,859**	**19,910,090**	**6.72%**

- As in prior fiscal years, revenues are not keeping up with expenditures citywide.
- Options include increasing revenue, using depleting fund balance/reserves and/or reducing expenses.

FY26 PRELIMINARY UPDATE BY DEPARTMENT

Summary of Expenditures by Department – All Funds

	FY 2022 Actual	FY 2023 Actual	FY 2024 Actual	FY 2025 Adopted	FY 2026 Adopted	FY 2026 Update
Mayor and Council	3,334,706	3,943,449	4,203,792	5,929,940	5,975,686	7,779,383
City Auditor	2,691,656	2,711,752	3,157,444	3,759,532	3,838,168	3,867,644
Rent Stabilization Board	5,803,126	6,784,836	7,028,903	8,489,208	8,597,595	9,222,949
Police Accountability (a)	808,594	909,307	1,210,483	1,484,847	1,524,120	1,497,263
City Manager's Office	18,417,010	19,826,926	22,096,549	18,116,987	18,383,457	19,748,967
Berkeley Public Library	18,476,578	19,951,914	24,026,043	29,196,378	29,606,293	34,097,618
City Attorney	6,200,456	7,880,612	9,112,692	9,290,707	9,425,305	9,853,253
City Clerk	2,398,903	2,876,230	2,823,822	3,518,483	3,576,397	3,805,489
Finance	8,738,585	8,872,348	8,938,144	11,823,352	11,963,574	12,365,438
Human Resources	3,574,288	4,588,216	5,551,340	5,993,013	6,198,864	6,868,420
Information Technology	16,446,318	15,454,602	15,298,230	23,471,574	23,651,297	24,133,340
Health, HSG & Community Svc	91,780,017	102,059,650	108,295,302	137,886,421	138,029,239	101,941,477
Parks, Recreation & Waterfront	63,534,473	45,578,024	48,266,958	47,477,378	47,713,333	51,220,137
Planning & Development	22,433,636	24,148,382	26,533,191	33,307,721	33,268,672	34,955,135
Public Works	140,757,034	133,012,197	149,296,617	196,515,790	181,881,632	238,729,999
Police	82,753,749	89,672,154	90,716,174	91,311,450	94,797,598	107,694,500
Fire & Emergency Services	58,014,195	62,872,373	68,731,246	71,480,646	73,060,880	79,070,418
Non-Departmental (b)	126,738,115	119,779,636	133,946,419	94,266,290	91,525,011	88,798,652
Total All Funds	**672,901,439**	**670,922,608**	**729,233,350**	**793,319,717**	**783,017,121**	**835,650,081**

* FY 2025 & FY 2026 General Fund numbers do include adopted Tier 1 funding recommendations

(a) Police Review Commission has become the Office of the Director of Police Accountability in FY 23

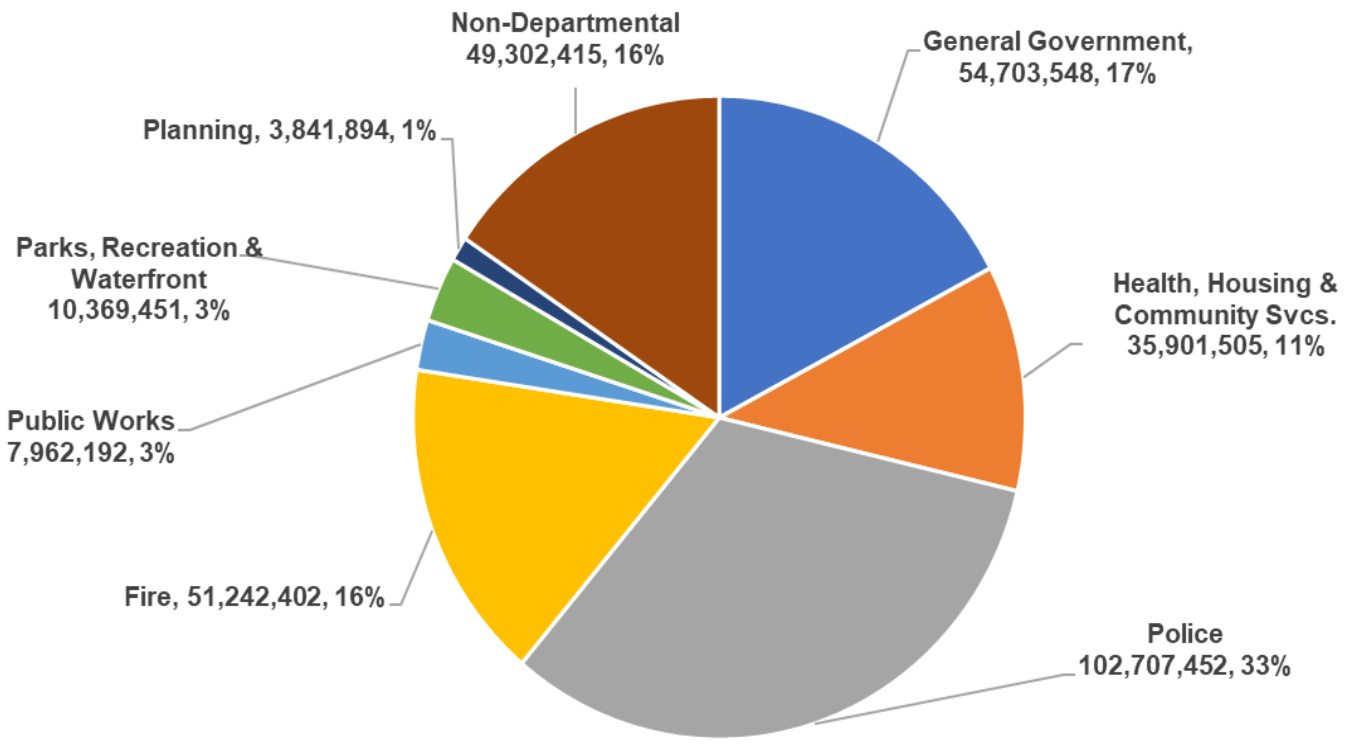
(b) Non-Departmental consists of operational overhead costs such as Property Insurance and School Board Salaries, General Fund allocation for Community Based Organizations, Workers' Compensation costs, Debt Service, and Interfund Transfers.

FY26 PRELIMINARY UPDATE BY DEPARTMENT

Summary of Expenditures by Department – General Fund

	FY 2022 Actual	FY 2023 Actual	FY 2024 Actual	FY 2025 Adopted	FY 2026 Adopted	FY 2026 Update
Mayor and Council	3,334,706	3,939,049	4,203,792	5,929,940	5,975,686	7,779,383
City Auditor	2,627,178	2,633,227	3,078,425	3,657,880	3,734,615	3,823,689
Rent Stabilization Board (a)	-	568,412	554,214	-	-	-
Police Accountability	808,594	909,307	1,210,483	1,484,847	1,524,120	1,497,263
City Manager's Office	12,034,751	13,385,432	15,438,698	14,352,200	14,591,829	16,182,796
City Attorney	2,648,008	3,701,943	5,332,589	5,612,249	5,662,267	6,093,156
City Clerk	2,231,818	2,550,697	2,114,865	2,867,551	2,918,529	3,139,455
Finance	6,827,434	7,075,971	7,188,353	9,302,267	9,415,265	9,865,324
Human Resources	2,052,893	2,971,640	3,819,103	3,928,242	4,073,809	4,741,723
Information Technology	1,446,933	882,432	1,077,796	1,580,760	1,580,760	1,580,760
Health, HSG & Community Svc	32,619,369	28,154,030	36,867,755	31,950,903	33,283,018	35,901,505
Parks, Recreation & Waterfront	8,757,651	9,693,628	12,640,006	9,625,120	9,719,820	10,369,451
Planning & Development	2,629,757	2,924,671	3,153,666	3,745,098	3,802,944	3,841,894
Public Works	6,859,822	7,066,623	7,100,535	7,046,369	7,209,627	7,962,192
Police	77,916,629	84,895,063	85,926,952	86,427,222	89,849,214	102,707,452
Fire & Emergency Services	43,406,934	40,874,529	48,392,171	47,108,481	48,628,122	51,242,402
Non-Departmental	43,112,577	52,800,630	69,050,828	50,930,926	54,151,147	49,302,415
Total	**249,315,054**	**265,027,284**	**307,150,230**	**285,550,055**	**296,120,772**	**316,030,859**

FY26 PRELIMINARY UPDATE BY DEPARTMENT

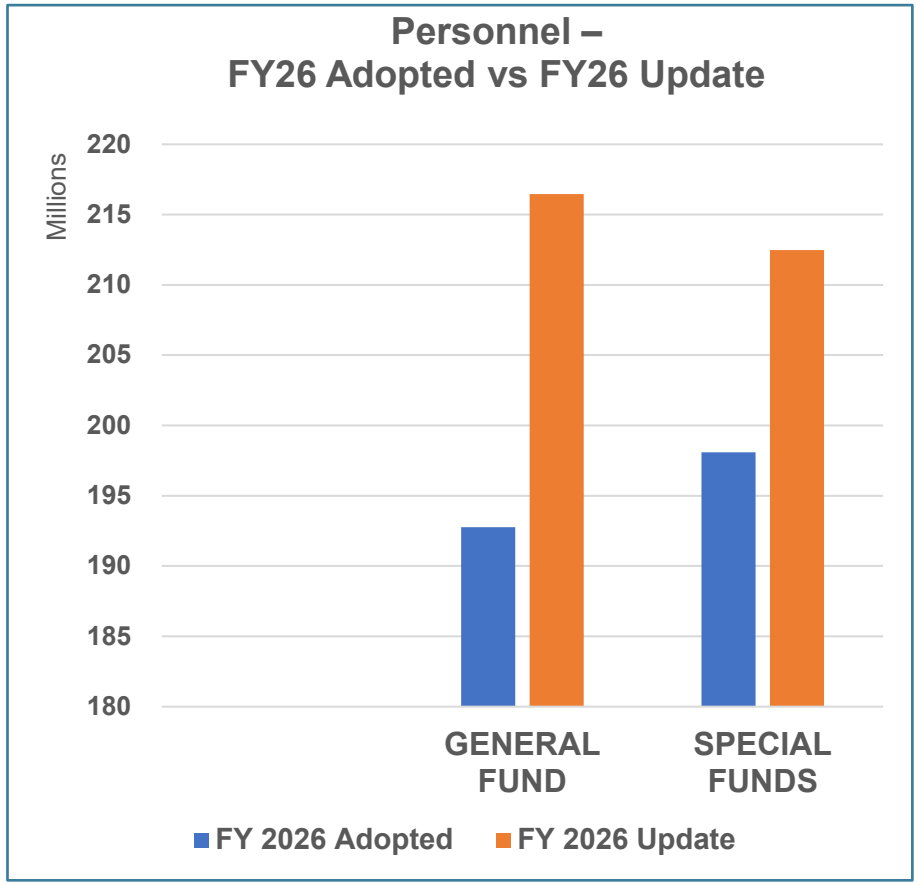


- Public safety ~50% of budget
- General Government is 17%
- Non-department of 16% includes
  - $14M community agencies
  - $10M transfer for streets
- HHCS is 11%
- Planning, PRW and Public Works together total 7%

COST DRIVER: SALARIES

Personnel - GF	FY 2026 Adopted	FY 2026 Update	Increase Amount	%
POLICE	82,456,475	95,316,213	12,859,737	16%
FIRE	40,242,447	43,104,262	2,861,815	7%
OTHER DEPARTMENTS	70,073,940	78,034,117	7,960,177	11%
Total	**192,772,863**	**216,454,592**	**23,681,729**	**12%**
*includes GFTarget Savings: FY26 Adopted-6% Average; FY26 Update-3%				

Personnel	FY 2026 Adopted	FY 2026 Update	Increase Amount	%
GENERAL FUND	192,772,863	216,454,592	23,681,729	12%
SPECIAL FUNDS	198,080,706	212,471,512	14,390,806	7%
Total	**390,853,568**	**428,926,104**	**38,072,535**	**10%**
*includes GFTarget Savings: FY26 Adopted-6% Average; FY26 Update-3%				



- Update reflects increased wages with implementation of adopted labor MOUS
- Updated Budget includes vacant positions budgeted at step 1
- Salary savings target revised from an average of 6% ($15M) to 3% ($7M) for the General Fund.
- Includes $10M in overtime (~$7M Police and $3M Fire), may need to increase based on prior years.

COST DRIVER: PENSION

- The City contributes a percentage of payroll to CalPERS for the retirement plans of current employees (normal cost)
- The percentage has decreased slightly, but base payroll is up
- CalPERS updated the projected cost of the Unfunded Actuarial Liability (UAL), which is the cost for prior employees' retirement
- Total pension costs are $4.6M, or 9%, more than FY26 Adopted

Pension Plan	FY 2026 Adopted	FY 2026 Update	Increase Amount	Increase %
FIRE	9,875,261	11,141,002	1,265,741	13%
POLICE	24,697,530	28,799,988	4,102,458	17%
MISCELLEANOUS	19,635,266	18,900,457	(734,809)	-4%
Total	**54,208,057**	**58,841,447**	**4,633,390**	**9%**

CONTEXT ON GENERAL FUND BUDGET

- The General Fund has been struggling with a structural deficit.
- FY 20-21 Budget: $40M ➡ Hiring freeze, no capital and $11M reserves
- FY 22 Budget: $27M ➡ $23M in ARPA, $4M reductions
- FY23-24: $22M/$12M ➡ Increase salary savings, use of fund balance
- FY25-26: $12M/FY ➡ Salary savings, fund balance and Trust, work comp holiday
- One-time solutions are largely gone and our costs are up significantly

FY26 GENERAL FUND BUDGET OVERVIEW

	FY26 Adopted	FY26 Projected Update
Revenue	$284,047,716	$284,047,716
General Fund Balance	3,762,210	
Total Uses	**287,809,926**	**286,382,796**
Adopted Expenditures	296,120,772	316,030,859
Expenditure reductions (pension refinement, cost shifts)		(3,532,018)
Worker Compensation Holiday	(4,854,558)	(5,429,505)
Section 115 Pension Trust	(3,000,000)	(3,000,000)
Completed Old City Hall & Veterans Building Leak Repair	(68,141)	(68,141)
PW Engineer charged to streets budget	(388,147)	
Revised Expenditures	**287,809,926**	**304,001,195**
Projected Surplus/(Deficit)		**(19,953,479)**

- General Fund (no U1) projected $20M deficit from increased personnel expenses and revised salary savings.
- While revenue projections are updated by Finance, strategies to balance the budget are needed.
- The environment has changed since last June and some of the prior balancing options may not be as feasible.
- FY26 Mid-Biennial Update will close the deficit with one-time options. However, FY27-28 will work on long-term fiscally sustainable approaches to address the ongoing structural deficit.

BUDGET BALANCING OPTION: WORKER COMPENSATION HOLIDAY

- **FY26 includes holiday of $5.5M GF ($10.7M All Funds)**
- Used to balance and fund other needs (TI construction costs, Marina Dock project) for the past 2 years
- Assets have gone from $56M to $35M (6/30/25 projected)
- Assets / Liabilities have gone from 100% to 68%, and another year of “holiday” could reduce this to 55%
- Actuarial recommend an asset balance of $51.3M at 6/30/25 to have 80% confidence that our total liability is covered.
- Short-term costs of payment of salaries while on leave and overtime to backfill in public safety as well as long term liability depending on length and cost of settlement

BUDGET BALANCING OPTION: SECTION 115 TRUST

- Pension cost increase of $4.6M or 9% over FY26 Adopted
- **FY26 Budget includes $3M. Increase by $3M for $6M total.**
- Trust balance of $26.4M as of 6/30/2024
- Use of Trust in the short-term balanced with future needs
- Long-term liability is of paramount concern

PLAN Citywide costs	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30
Fire	$7,958,918	$8,768,612	$9,415,000	$9,945,000	$11,093,000	$11,370,000
Police	16,420,813	17,867,757	18,906,000	19,796,000	21,479,000	21,988,000
Miscellaneous	30,126,063	31,865,338	34,561,000	36,579,000	40,959,000	42,012,000

Source: CalPERS actuarial valuation as of 6/30/23. Assumes 6.80% rate of return.

BUDGET BALANCING OPTION: VACANCIES

- FY26 Update included vacant positions as of January 2025
- Departments provided update on filled and newly vacant positions
- Snapshot as of 4/1/25. Positions may have been filled as hiring freeze not in place yet
- Currently 134 positions totally $26.2M included within budget
- Use hiring freeze memo criteria to evaluate
- Determine which positions will not be budgeted thereby reducing costs
- Exploring one-time or longer cost shifting between funds for filled positions

BUDGET BALANCING OPTION: U1

- FY26 includes $2.5M allocation for Small Sites program
- FY26 includes $1M to organizations for capacity building and anti-displacement
- FY26 includes ERF-2 required match as Measure P is overcommitted
- FY26 using $2.3M of fund balance
- Projected to be negative in FY28 due to support of 2 required matches for ERF grants

BUDGET BALANCING OPTION: EXPENDITURE REDUCTION/ COST SHIFT

- Partial holiday on contribution to IT
- Evaluated savings from Specialized Care Unit
- Assessing community agency funding and performance
- Reviewing baseline for funding to outside agencies
- Reviewing FY26 Adopted Tier 1 Items
- Reviewing Measure P planned programmatic expenditures

NEXT STEPS

- Next Budget Committee meeting on May 15, 2025:
  - FY26 Revenue Projection Update
  - Vacancy review: impact of keeping positions vacant, City Manager recommendations
  - Measure P Forecast Update
  - FY26 Council budget referrals

- Council Budget meeting on May 20, 2025

GOING FORWARD

FY 25/26

- Implementing one-time measures
- Hiring freeze
- Maintaining vacant positions

Biennial FY 27 – FY 28: Addressing the City's Structural Deficit

- Cost structure
- Revenue opportunities
- Efficiencies

DISCUSSION

- Questions and Comments
- Other strategies to consider

FY26 Budget Balancing Options			
Revenues	$	284,047,716	Adopted revenue. Waiting for update
	$	*1,661,452*	*projected ambulance revenue increase*
Expenditures	$	316,030,859	Includes vacant positions. Does not include new funding requests and Council budget referrals
Cost refinement reduction	$	(3,532,018)	
Projected Surplus/(Deficit)	***$***	***(26,789,673)***	
Options			
Unfund vacant positions			Will need to recalculate the salary savings target included within the FY26 Update projection as it based on payroll
Section 115 Trust for Pension	$	(6,000,000)	Reduce GF contribution to PERS UAL with Trust paying a portion of the payment instead
Worker Compensation Holiday	$	(5,428,152)	GF portion. Would also apply holiday to other citywide funds.
IT Cost Allocation holiday (50%)	$	(6,164,889)	Reduce GF allocation to IT services
Measure U1 Reallocation	$	(2,500,000)	Reallocate small sites funding
Community agency reduction			Reviewing quarterly reports and contracts to assess feasibility for savings
Projected Surplus/(Deficit)	**$**	**(6,696,632)**	

General Fund Vacant Positions as of 04.01.2025						
Department Name	**PCN#**	**Position Description**	**Budgeted Amount**	**% GF Funded**	**How long has the position been vacant?**	**Notes**
City Attorney	N/A	RISK MANAGER	$ 258,967.80	1.00	1+ years	
City Attorney	991	SENIOR LEGAL SECRETARY - CA - OFFICE OF THE CITY ATTY	$ 142,630	1.00	1+ years	
City Attorney Total			**$ 401,598**	**2.00**		
City Auditor	783	ACCOUNTING TECHNICIAN - AUDITOR - PAYROLL DIVISON	$ 161,902	1.00	1 to 3 months	
City Auditor	1746	AUDITOR I - AUDITOR - PERFORMANCE DIVISION	$ 169,155	1.00	1 to 3 months	
City Auditor	2908	SENIOR AUDITOR - AUDITOR - PAYROLL DIVISON	$ 211,461	1.00		
City Auditor Total			**$ 542,518**	**3.00**		
City Clerk	1271	OFFICE SPECIALIST III - CC - OFFICE OF THE CITY CLERK	$ 137,101	1.00	1+ years	
City Clerk Total			**$ 137,101**	**1.00**		
City Manager	3952	ADMIN ASSISTANT UNREP - CMO - OFFICE OF THE CITY MANAG	$ 137,584	1.00	4 to 6 months	
City Manager	1898	DEPUTY CITY MANAGER	$ 508,852	1.00	4 to 6 months	
City Manager	1416	DIGITAL COMNCATNS COORD - CMO - COMMUNICATIONS	$ 212,996	1.00	1 to 3 months	
City Manager	1628	OFFICE SPECIALIST II - CMO - OFFICE OF THE CITY MANAG	$ 121,403	1.00	1+ years	
City Manager	2588	PROGRAM MANAGER I	$ 190,170	1.00	4 to 6 months	
City Manager Total			**$ 1,171,005**	**5.00**		
Finance	3578	ACCT OFF SPEC II MC - FIN - REV COLLECTION - LICENSING	$ 121,754	1.00	4 to 6 months	
Finance	1430	ACCT OFF SPEC II MC - FIN - TREASURY - DIVISI	$ 121,754	1.00	4 to 6 months	
Finance	3866	ACCT OFF SPEC III MC - FIN - TREASURY - DIVISION	$ 137,947	1.00	4 to 6 months	
Finance	565	ADMIN SECRETARY - FINANCE - OFFICE OF THE DIR	$ 183,749	1.00	1 to 3 months	
Finance	221	ASSOC MGMT ANALYST CSU - FIN - REV COLLECTION - LICENSING	$ 86,328	0.50	1+ years	
Finance	1220	CUSTOMER SVC SPEC II - FIN - REV COLLECTION - CUST SVC	$ 124,196	1.00	7 to 12 months	
Finance	2477	CUSTOMER SVC SPEC II - FIN - REV COLLECTION - CUST SVC	$ 124,196	1.00	7 to 12 months	
Finance	1282	GENERAL SERVICES MANAGER - FIN - GENERAL SERVICES - DIVISON	$ 211,973	1.00	4 to 6 months	
Finance	2597	REVENUE DEVELOPMENT SPEC I - FIN - TREASURY - REV DEVELOPMENT	$ 142,340	1.00	1+ years	
Finance	3310	REVENUE DEVELOPMENT SPEC I - FIN - TREASURY - REV DEVELOPMENT	$ 142,340	1.00	1+ years	
Finance	2461	REVENUE DEVELOPMENT SUP - FIN - TREASURY - REV DEVELOPMENT	$ 185,934	1.00	1+ years	
Finance	1289	SENIOR SYSTEMS ANALYST - FIN - ANALYTICAL SYS DIV	$ 206,393	1.00	7 to 12 months	
Finance Total			**$ 1,788,904**	**11.50**		
Fire	4451	FIRE CAPTAIN II - FD - OPERAT - FIRE SUPPRESSION	$ 281,161	1.00	1+ years	
Fire	2772	FIREFIGHTER - FD - OPER - EMERGENCY MED SVCS	$ 217,468	1.00	1 to 3 months	
Fire	3891	LIMITED TERM EMT	$ 92,693	1.00	1+ years	
Fire	3892	LIMITED TERM EMT	$ 92,693	1.00	1+ years	
Fire	3893	LIMITED TERM EMT	$ 92,693	1.00	1+ years	
Fire	3894	LIMITED TERM EMT	$ 92,693	1.00	1+ years	
Fire	3895	LIMITED TERM EMT	$ 92,693	1.00	1+ years	
Fire	3896	LIMITED TERM EMT	$ 92,693	1.00	1+ years	
Fire	3897	LIMITED TERM EMT	$ 92,693	1.00	1+ years	
Fire	3898	LIMITED TERM EMT	$ 92,693	1.00	1+ years	

General Fund Vacant Positions as of 04.01.2025						
Department Name	**PCN#**	**Position Description**	**Budgeted Amount**	**% GF Funded**	**How long has the position been vacant?**	**Notes**
Fire	3899	LIMITED TERM EMT	$ 92,693	1.00	1+ years	
Fire	3900	LIMITED TERM EMT	$ 92,693	1.00	1+ years	
Fire	2894	MECHANIC - FIRE DEPARTMENT	$ 139,076	1.00	7 to 12 months	
Fire	1924	OFFICE SPECIALIST II - FD - CHIEF ADMIN & FISCAL SRV	$ 119,781	1.00	1 to 3 months	
Fire	2773	FIREFIGHTER - FD - OPER - EMERGENCY MED SVCS	$ 256,015	1.00	1 to 3 months	
Fire	1409	FIREFIGHTER - FD - OPER - EMERGENCY MED SVCS	$ 241,540	1.00	1 to 3 months	
Fire	2748	FIREFIGHTER - FD - OPER - EMERGENCY MED SVCS	$ 248,613	1.00	1 to 3 months	
Fire	1049	FIREFIGHTER - FD - OPER - EMERGENCY MED SVCS	$ 244,214	1.00	1 to 3 months	
Fire	3609	PARAMEDIC - FIRE	$ 138,249	1.00	1 to 3 months	
Fire	3930	PARAMEDIC (R) - FD OPER EMERGENCY MED SVCS S-P	$ 142,130	1.00	1 to 3 months	
Fire	3932	PARAMEDIC (R) - FD OPER EMERGENCY MED SVCS S-P	$ 142,130	1.00	1 to 3 months	
Fire	4608	PARAMEDIC (R) - FD OPER EMERGENCY MED SVCS S-P	$ 142,130	1.00	1 to 3 months	
Fire Total			**$ 3,239,437**	**22.00**		
HHCS	3589	(T) COM SERVICE SPEC II - HHCS-HCS - HOMELESS SERVICES	$ 172,665	1.00		
HHCS	2535	BEHAVIORAL HLTH CLIN II - HHCS-AGING - SOCIAL SERVICES	$ 96,468	0.44	1 to 3 months	
HHCS	2404	BEHAVIORAL HLTH CLIN II - HHCS-MH - CRISIS SERVICES	$ 164,261	1.00	1+ years	
HHCS	2630	COM DEVELOPMENT PROJ COOR - HHCS-HCS - COMMUNITY SVCS	$ 188,182	1.00	1+ years	
HHCS	2517	CUSTOMER SERVICE SPECIALIST II - HHCS - PHOU - VITAL STATISTICS	$ 116,739	0.94	4 to 6 months	
HHCS	1594	HEALTH OFFICER (CERT) - HHCS-PHOU UNIT	$ 449,062	1.00	1 to 3 months	
HHCS	568	HEALTH SERVICES PROGRAM SPEC - HHCS-PH - FAMILY WELL - WBFWC	$ 118,527	0.72	4 to 6 months	
HHCS	1206	HEALTH SERVICES PROGRAM SPEC - HHCS-PH - PREPAREDNESS	$ 37,845	0.23	1 to 3 months	
HHCS	1057	HEALTH SERVICES SUPERVISOR- HHCS - PH - ADMINISTRATION	$ 104,453	0.50	1 to 3 months	
HHCS	1638	MEALSITE COORDINATOR - HHCS-AGING - STH BERK SR CNTR	$ 16,591	0.16	1 to 3 months	
HHCS	3335	MENTAL HEALTH CLINICAL SUPV - HHCS-MH - CRISIS SERVICES	$ 164,224	0.90	1+ years	
HHCS	826	OFFICE SPECIALIST II - HHCS-AGING - STH BERK SR CNTR	$ 119,598	1.00	1+ years	
HHCS	204	OFFICE SPECIALIST II - HHCS-EH - ADMINISTRATION	$ 74,123	0.60	1 to 3 months	
HHCS	653	SENIOR COMM DEVLP PROJ COORD - HHCS-HCS - HOUSING	$ 208,100	1.00	4 to 6 months	
HHCS	792	SENIOR HEALTH SERV PROG SPEC - HHCS-PH - FAMILY WELL - WBFWC	$ 227,927	1.00	1 to 3 months	
HHCS	3394	SENIOR HEALTH SERV PROG SPEC - HHCS-PH - PREPAREDNESS	$ 105,770	0.50	1 to 3 months	
HHCS	1429	SOCIAL SERVICES SPECIALIST - HHCS-AGING - SOCIAL SERVICES	$ 92,038	0.50	1 to 3 months	
HHCS	851	SUPERVISING PUBLIC HLTH NURSE - HHCS-PHOU - COMMUNICABLE DIS	$ 120,172	0.51	4 to 6 months	
HHCS	1960	SUPERVISING PUBLIC HLTH NURSE - HHCS-PHOU - COMMUNICABLE DIS	$ 235,649	1.00	4 to 6 months	
HHCS	1056	VECTOR CONTROL TECHNICIAN - HHCS-EH - DIVISION	$ 108,326	0.78	1+ years	
HHCS Total			**$ 2,920,720**	**14.78**		
HR	1597	DIR OF HUMAN RESOURCES - HR - OFFICE OF HR DIRECTOR	$ 380,079	0.90	1 to 3 months	
HR Total			**$ 380,079**	**0.90**		
Mayor and Council	3234	LEGISLATIVE AIDE - MAYOR'S OFFICE	$ 142,454	1.00	7 to 12 months	
Mayor and Council Total			**$ 142,454**	**1.00**		

General Fund Vacant Positions as of 04.01.2025						
Department Name	**PCN#**	**Position Description**	**Budgeted Amount**	**% GF Funded**	**How long has the position been vacant?**	**Notes**
ODPA	171	ASSOCIATE MANAGEMENT ANALYST - MAYOR'S OFFICE - OFFICE OF DIR. POLICE AC	$ 172,848	1.00	4 to 6 months	
ODPA	3777	POLICE ACCOUNTABILITY INVESTIGATOR - MAYOR'S OFFICE - OFFICE OF DIR.	$ 203,444	1.00	1 to 3 months	
ODPA Total			**$ 376,292**	**2.00**		
Planning	1417	COMMUNITY SERVICE SPEC I - PLAN - ENERGY AND SUSTAINABILITY	$ 113,866	0.80	1 to 3 months	
Planning	1506	OFFICE SPECIALIST II - PLAN - LAND USE - DIVISION	$ 59,332	0.50	1+ years	
Planning	3349	PLANNING TECHNICIAN - PLAN - LAND USE - DIVISION	$ 66,077	0.50	1 to 3 months	
Planning Total			**$ 239,275**	**1.80**		
Police	2283	COMMUNITY SERVICE OFFICER- PD - SUP SRVS - JAIL	$ 140,490	1.00	1 to 3 months	
Police	3918	COMMUNITY SERVICE OFFC SUP - PD -SUP SRV - RECORDS/SUBPOENA	$ 134,038	1.00	7 to 12 months	
Police	3917	COMMUNITY SERVICE OFFICER - PD - INVES DETECT/CRIME ANLYST	$ 134,038	1.00	7 to 12 months	
Police	3912	COMMUNITY SERVICE OFFICER- PD -INVES DETECT/CRIME ANLYST	$ 134,038	1.00	7 to 12 months	
Police	3915	COMMUNITY SERVICE OFFICER- PD -INVES DETECT/CRIME ANLYST	$ 134,038	1.00	7 to 12 months	
Police	3916	COMMUNITY SERVICE OFFICER- PD -INVES DETECT/CRIME ANLYST	$ 134,038	1.00	7 to 12 months	
Police	3318	CRIME ANALYST - PD -INVES DETECT/CRIME ANLYST	$ 173,950	1.00	4 to 6 months	
Police	1567	OFFICE SPECIALIST III M&C PD -SUP SRV - RECORDS/SUBPOENA	$ 145,740	1.00	1 to 3 months	
Police	380	OFFICE SPECIALIST III PD -PRO STAND - PERSON & TRAIN	$ 165,609	1.00	1 to 3 months	
Police	3167	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 286,877	1.00	1+ years	
Police	956	POLICE OFFICER - PD - INVES DETECT/CRIME ANLYST	$ 278,679	1.00	1+ years	
Police	302	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	335	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	467	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,518	1.00	1+ years	
Police	474	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	579	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	650	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	679	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	750	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	1110	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	1166	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	1177	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	1450	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	1880	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	2499	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	4367	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	4368	POLICE OFFICER - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	447	POLICE OFFICER - PD -INVES DETECT/CRIME ANLYST	$ 278,679	1.00	1+ years	
Police	894	POLICE OFFICER - PD -INVES DETECT/CRIME ANLYST	$ 278,679	1.00	1+ years	
Police	1081	POLICE OFFICER - PD -OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	932	POLICE OFFICER 12.5 - PD - OPERATION - PATROL	$ 278,679	1.00	1+ years	

General Fund Vacant Positions as of 04.01.2025						
Department Name	**PCN#**	**Position Description**	**Budgeted Amount**	**% GF Funded**	**How long has the position been vacant?**	**Notes**
Police	2814	POLICE OFFICER 12.5 - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	2827	POLICE OFFICER 12.5 - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	2828	POLICE OFFICER 12.5 - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	2831	POLICE OFFICER 12.5 - PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	2959	POLICE OFFICER 12.5 - PD - OPERATIONS - PATROL	$ 294,665	1.00	1+ years	
Police	2963	POLICE OFFICER 12.5 - PD - OPERATIONS - PATROL	$ 290,181	1.00	1+ years	
Police	498	POLICE OFFICER- PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	570	POLICE OFFICER- PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	590	POLICE OFFICER- PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	892	POLICE OFFICER- PD - OPERATIONS - PATROL	$ 278,679	1.00	1+ years	
Police	774	POLICE OFFICER- PD -INVES DETECT/CRIME ANLYST	$ 278,679	1.00	1+ years	
Police	4452	POLICE SERGEANT - PD - OPERATIONS - PATROL	$ 376,054	1.00	7 to 12 months	
Police	473	POLICE SERGEANT- PD - OPERATIONS - PATROL	$ 376,054	1.00	1+ years	
Police	271	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	
Police	344	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	
Police	346	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	1+ years	
Police	581	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	
Police	924	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	
Police	1059	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	
Police	3316	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	
Police	3375	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	
Police	3905	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	
Police	3906	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	
Police	3907	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	
Police	3908	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	
Police	3909	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 122,891	1.00	7 to 12 months	
Police	4453	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 130,231	1.00	1 to 3 months	
Police	341	PUBLIC SAFETY DISPATCHER I/II - PD - SUP SRV - COMMUNICAT CNTR	$ 157,316	1.00	1 to 3 months	
Police	275	PUBLIC SAFETY DISPATCHER II- PD - SUP SRV - COMMUNICAT CNTR	$ 162,936	1.00	7 to 12 months	
Police	767	PUBLIC SAFETY DISPATCHER II- PD - SUP SRV - COMMUNICAT CNTR	$ 162,936	1.00	7 to 12 months	
Police	1148	PUBLIC SAFETY DISPATCHER II- PD - SUP SRV - COMMUNICAT CNTR	$ 162,936	1.00	7 to 12 months	
Police	3317	PUBLIC SAFETY DISPATCHER II- PD - SUP SRV - COMMUNICAT CNTR	$ 162,936	1.00	7 to 12 months	
Police	3911	SUPERVISING PUBLIC SFTY DISP - PD - SUP SRV - COMMUNICAT CNTR	$ 184,028	1.00	7 to 12 months	
Police Total			**$ 14,000,921**	**64.00**		
PRW	2527	AQUATICS FACILITIES SUP - PRW - REC - W CAMPUS SWIM CTR	$ 112,970	1.00	1+ years	
PRW Total			**$ 112,970**	**1.00**		
Public Works	3880	(PB) ASSOC PLANNER - PW - TRANSPORTATION - PLANNING	$ 168,678	1.00	4 to 6 months	
Public Works	162	ACCOUNTING OFFICE SPEC III MC - PW DIRECTOR - CUSTOMER SVCS	$ 6,070	0.04	1 to 3 months	

General Fund Vacant Positions as of 04.01.2025						
Department Name	**PCN#**	**Position Description**	**Budgeted Amount**	**% GF Funded**	**How long has the position been vacant?**	**Notes**
Public Works	3879	ASST CIVIL ENG (REG) - PW - GEN ENG - FACILITIES/BLDGS	$ 196,569	1.00	1+ years	
Public Works	3881	PUBLIC WORKS SUPERVISOR - PW - STREETS - STREET MAINT	$ 167,726	1.00	1+ years	
Public Works	569	SUPERVISING TRANSPORTATION ENGINEER - PW - TRANS - TRAFFIC ENG	$ 193,730	0.80	1+ years	
Public Works Total			**$ 732,773**	**3.84**		
Grand Total			**$ 26,186,047**	**133.82**		

Fiscal Years 2025 and 2026 Adopted Budget
General Fund Supported Requests and Referrals by Department

Requestor	Budget Referral	Expenditure Type/Description	FY 2025 Adopted Funding	FY 2026 Adopted Funding	Type of Request	Reason for Request	Lead Department
City Attorney		Risk Manager	129,484	258,968	On-Going	The City Attorney's Office serves as the Risk Manager for the City, but does not currently employ dedicated staff person to oversee risk management. This position is presently unclassified.	City Attorney
City Attorney		Outside Legal Counsel	500,000	500,000	One-Time	The City requires specialized legal expertise to meet the needs on Aging Infrastructure, Environmental Law, and Police Oversight	City Attorney
City Attorney		Deputy City Attorney I (2.0 FTEs / Step 3)	137,295	366,122	On-Going	Entry-level attorneys to provide additional capacity to respond to innovative policy initiatives originated by the City Council.	City Attorney
City Attorney		Affirmative Litigation	200,000	200,000	One-Time	Establishment of an Affirmative Litigation account (Public Liability Fund) using existing settlement revenues	City Attorney
City Attorney		Deferred Maintenance of Office Facilities	76,663	38,198	One-Time	Increase in non-personnel baseline adjusted for inflation and for facility maintenance and renovation	City Attorney
City Attorney		Increase in non-personnel Baseline (Public Liability Fund) - inflation adjustment	214,182	298,762	On-Going	Increase in non-personnel Baseline (Public Liability Fund)	City Attorney
City Auditor		Auditor II	201,898	213,675	On-Going	Convert a 2-year temporary position to permanent based on ongoing and increased workload.	City Auditor
City Auditor		Increase Payroll Division's overtime budget	50,000	50,000	One-Time	Reflects time needed for payroll activities	City Auditor
City Auditor		24/7 hotline service and case management software for Whistleblower Program	20,000	20,000	On-Going	Annual cost for 24/7 hotline service and case management software for Whistleblower Program	City Auditor
City Auditor		Staff Training	30,000	30,000	On-Going	Required trainings to maintain compliance with professional standards in Payroll and Performance audit.	City Auditor
City Auditor		Payroll Audit Succession Planning	50,000	-	One-Time	Funds to onboard new leadership with overlap of exiting leadership to ensure stability of City's payroll functions.	City Auditor

Fiscal Years 2025 and 2026 Adopted Budget
General Fund Supported Requests and Referrals by Department (Continued)

Requestor	Budget Referral	Expenditure Type/Description	FY 2025 Adopted Funding	FY 2026 Adopted Funding	Type of Request	Reason for Request	Lead Department
City Manager		Costs for design of new HVAC at Animal Shelter	118,000	-	One-Time	The Shelter's existing system is at the end of its useful life and frequently fails, creating safety issues for animals and staff, particularly during surgeries and in efforts to manage parasite outbreaks. The complexity of the system requires extensive design consultation. (Neighborhood Services)	Public Works
City Manager		Violence Prevention and Youth Services	210,000	210,000	One-Time	Voices Against Violence ($50,000) & BYA Counseling Center ($125,000 & $35,000). (Reimagining Public Safety)	Health, Housing, & Community Services
City Manager		Solano Stroll waste management services	12,000	12,000	One-Time	Manage waste removal from the Solano Stroll (Green Mary). (Neighborhood Services)	City Manager
City Manager		Solano Stroll vehicle barricade rental	50,000	50,000	One-Time	Rentals for Meridian barriers for the annual Solano Stroll. (Neighborhood Services)	City Manager
City Manager		Solano Stroll and special event street closure supplies and rentals	6,000	6,000	One-Time	Cost for Transportation Division street closure supplies (Neighborhood Services)	City Manager
City Manager		Solano Stroll Zero waste fees	1,500	1,500	One-Time	Cost for Zero Waste refuse bins (Neighborhood Services)	City Manager
City Manager		Restore Community Festival Grants	-	-	One-Time	Restore budget to $200k. Restored in FY 23&24 by savings from Mayor's Office	City Manager
Finance		Reclassification AOSIII - Treasury to align with operations	20,732	20,732	On-Going	Part of Employer of Choice initiative to retain employees. Critical to maintaining the Treasury function of receipt recordation, deposits, and investments.	Finance
Finance		Reclassification to Revenue Counter Customer Service to support revenue collection	15,306	15,306	On-Going	Part of Employer of Choice initiative to retain employees. Critical to maintaining revenue collections	Finance
Fire		Overtime	1,500,000	1,500,000	On-Going	Increase overtime budget to reflect department need and prior years' actuals.	Fire
Fire		1227 BFFA - MOU item	55,000	55,000	On-Going	Needed to fully fund 1227's Wellness and Education Fund	Fire
Fire		PPE Replacement	77,781	223,831	On-Going	Replacement of personal protective equipment	Fire

Fiscal Years 2025 and 2026 Adopted Budget
General Fund Supported Requests and Referrals by Department (Continued)

Requestor	Budget Referral	Expenditure Type/Description	FY 2025 Adopted Funding	FY 2026 Adopted Funding	Type of Request	Reason for Request	Lead Department
Fire		Recruitment Funding	70,000	70,000	One-Time	Recruiting, Advertising, and Marketing firm specializing in public safety	Fire
Fire		Debt service payments for fire apparatuses	128,022	678,030	On-Going	Cost to finance the purchase of fire engines and aerial trucks. Financing is financial preferred as purchase price is over $7M.	Fire
Fire		Program Manager II (temporary)	-	-	One-Time	Temporary position for four years that would support the public safety reimagining goals and advance programs, projects, and policies that would meet the City's Complete Streets and Vision Zero goals. (FY25 - UC funds, FY26 - Measure FF, FY27 & FY28 - General Fund) FY25/26 cost of $283,270.	Fire
Health, Housing, & Community Services		Senior Community Development Project Coordinator	175,405	233,873	On-Going	This position will oversee the City's Labor Standards and Workforce Development Unit (a 4-person team) including the newly adopted Fair Work Week and Hard Hats ordinance.	Health, Housing, & Community Services
Health, Housing, & Community Services		Program Manager II	-	258,079	On-Going	For FY26 - Proposed as part of Phase III of the HCS staffing study to oversee all housing units in HCS. (Funded by Measure U1)	Health, Housing, & Community Services
Health, Housing, & Community Services		Community Services Specialist I	-	153,514	On-Going	For FY26 - Proposed as part of Phase III of HCS' Staffing Study to support all of the affordable housing programming in HCS. (Funded by Measure U1)	Health, Housing, & Community Services

Fiscal Years 2025 and 2026 Adopted Budget
General Fund Supported Requests and Referrals by Department (Continued)

Requestor	Budget Referral	Expenditure Type/Description	FY 2025 Adopted Funding	FY 2026 Adopted Funding	Type of Request	Reason for Request	Lead Department
Health, Housing, & Community Services		Workforce and youth development programming for Youthworkers	20,000	-	One-Time	The YW budget currently only supports staff salaries, hourly costs for YW and the bare minimum for program implementation. Youth development and workforce development programming is essential to supporting professional and life skills for youth so that they achieve independence and autonomy when transitioning into adulthood. This new and ongoing funding will allow YW to expand on highly successful pilot programming supported by one-time grant funding that will end in FY24	Health, Housing, & Community Services
Human Resources		Labor Negotiations & Investigations	125,000	125,000	On-Going	Increased funding to support consultants assisting the City with labor negotiations, ongoing personnel-related matters and personnel investigations.	Human Resources
Human Resources		Recruitment Funding	125,000	125,000	One-Time	Continuation of Employer of Choice allocation for marketing agency and digital outreach	Human Resources
Mayor & Council		Legislative Aides (new job specification and salary range)	1,363,115	1,363,115	On-Going	New Specification and Salary range for Legislative Aide Classification (renamed from Legislative Assistants) per Res#71,311 dated 05/07/2024; two Legislative Aides at Step 14 with benefits.	Mayor & Council
Office of the Director of Police Accountability		Board Member Training	35,000	35,000	On-Going	Board member training	Office of the Director of Police Accountability
Office of the Director of Police Accountability		Staff Training	36,000	36,000	One-Time	Staff training	Office of the Director of Police Accountability
Office of the Director of Police Accountability		Office location	100,022	103,297	On-Going	Rent for the new office	Office of the Director of Police Accountability

Fiscal Years 2025 and 2026 Adopted Budget
General Fund Supported Requests and Referrals by Department (Continued)

Requestor	Budget Referral	Expenditure Type/Description	FY 2025 Adopted Funding	FY 2026 Adopted Funding	Type of Request	Reason for Request	Lead Department
Parks, Recreation, & Waterfront		Fair Work Week - Hourly Labor Costs	63,500	67,175	On-Going	Estimated cost to implement Fair Work Week Ordinance, including predictability pay / right-to-rest pay	Parks, Recreation, & Waterfront
Parks, Recreation, & Waterfront		Utilities	11,173	273,499	On-Going	Utilities and janitorial have been underbudgeted, plus there have been steep increases in PG&E, EBMUD and Refuse.	Parks, Recreation, & Waterfront
Parks, Recreation, & Waterfront		Fair Work Week - Software	10,000	10,000	One-Time	Software needed to manage scheduling and retention requirements.	Parks, Recreation, & Waterfront
Parks, Recreation, & Waterfront		Camp Scholarships & DEI programs	355,811	230,000	One-Time	General fund support to Camps Fund to cover the costs of scholarships and DEI programs.	Parks, Recreation, & Waterfront
Parks, Recreation, & Waterfront		Summer Lunch Food Costs	39,323	39,323	On-Going	Support the Summer Lunch food program.	Parks, Recreation, & Waterfront
Parks, Recreation, & Waterfront		Cazadero Riverbed Erosion	300,000	-	One-Time	River wall eroding camp property. Assumes 50/50 share with Caz Perf Arts Camp, total cost is $600K.	Parks, Recreation, & Waterfront
Parks, Recreation, & Waterfront		South Cove Seawall-Planning Only	250,000	-	One-Time	Funding to retain a specialized marine structural engineering firm to begin the investigation on replacement methods and permitting needs for the Seawall. Planning process may help in seeking grants. Current estimated construction cost of $4-5 million.	Parks, Recreation, & Waterfront
Police		Fair Impartial Policing (FIP) Training	100,000	100,000	On-Going	FIP enhanced Training (RPS)	Police
Police		Wellness Fund	50,000	50,000	On-Going	Critical Incident Stress Contract, Peer Support Team, and emerging wellness needs.	Police
Police		Recruitment Funding	125,000	175,000	One-Time	Recruiting, Advertising, and Marketing firm specializing in public safety	Police
Police		Early Intervention System (EIS) subscription service	100,000	100,000	On-Going	Ongoing subscription service for EIS software	Police
Police		Community Service Officers	-	-	On-Going	Convert Limited Term to Permanent positions (6 CSO Officers and 1 CSO Supervisor)	Police

Fiscal Years 2025 and 2026 Adopted Budget
General Fund Supported Requests and Referrals by Department (Continued)

Requestor	Budget Referral	Expenditure Type/Description	FY 2025 Adopted Funding	FY 2026 Adopted Funding	Type of Request	Reason for Request	Lead Department
Public Works		Restrooms in Right of Way	105,000	105,000	On-Going	Maintenance for one restroom in the right of way.	Public Works
Public Works		ADA Transition Plan Implementation	-	250,000	On-Going	Requesting $1.0 M annual contribution towards citywide ADA spending for FY 25 and FY 26.	Public Works
Public Works		Citywide Bicycle and Pedestrian and Traffic Calming projects (and Bus Shelters/Benches) - Funded by Future TNC Tax Annual Revenues	120,000	120,000	On-Going	Maintenance of bus shelters/benches	Public Works
Kesarwani, Wengraf, Taplin, and Humbert	X	Publicly Accessible Permanent Bathroom at James Kenney Park	160,000	-	One-Time	Renovate an existing bathroom at the James Kenney Community Center to make it ADA compliant and permanently accessible to members of the general public who visit the park.	Parks, Recreation, & Waterfront
Mayor Arreguin	X	Supply Bank School Supply Distribution	35,000	35,000	One-Time	To support providing essential school supplies to Berkeley families.	Health, Housing, & Community Services
Mayor Arreguin	X	Cesar Chavez Solar Calendar Maintenance	10,000	-	One-Time	Fund Kala Art Institute, the fiscal sponsor for the Chavez/Huerta Tribute Site, for the continued purpose of employing grounds keepers and providing the resources needed for the maintenance of the Cesar Chavez/ Dolores Huerta Solar Calendar Site until May/June 2026.	City Manager's Office - Office of Economic Development
Hahn, and Wengraf	X	Co-Sponsorship and Budget Referral for the Solano Avenue Stroll	10,000	10,000	One-Time	Solano Avenue Stroll; to support the September 2024 and 2025 events.	City Manager's Office - Office of Economic Development
Taplin	X	Berkeley Junior Jackets Capacity-Building Grant	150,000	150,000	One-Time	To provide Young Lives Matter Foundation, Inc. with funding for two years of operating costs for the Berkeley Junior Jackets Football and Cheer youth sports program.	City Manager's Office Reimagining Public Safety

Fiscal Years 2025 and 2026 Adopted Budget
General Fund Supported Requests and Referrals by Department (Continued)

Requestor	Budget Referral	Expenditure Type/Description	FY 2025 Adopted Funding	FY 2026 Adopted Funding	Type of Request	Reason for Request	Lead Department
Taplin and Humbert	X	Vision Zero Rapid Response on Bicycle Boulevards	200,000	-	One-Time	Pilot implementation of Neighborhood Bikeway standards and Complete Streets interventions on Heinz Avenue and the intersection with Seventh Street, and prioritizing implementation on Bicycle Boulevards on High Injury Streets and/or the Equity Priority Area	Public Works
Taplin	X	Waterside Workshops Emergency Recovery Grant	82,000	-	One-Time	Support youth enrichment and climate resilience programs following revenue losses due to construction and street closures on Bolivar Drive.	City Manager's Office
Hahn and Taplin	X	Fund Small Sites Program to Acquire, Rehabilitate, and Protect Existing Small Scale Housing	5,000,000	5,000,000	One-Time	Housing Trust Fund (FY25 - $2,500,000 & FY26 - $2,500,000), and Measure U1 (FY25 - $2,500,000 & FY26 - $2,500,000).	Health, Housing, & Community Services
Hahn and Taplin	X	Fund Small Sites Program to Acquire, Rehabilitate, and Protect Existing Small Scale Housing	-	-	One-Time	$200,000 in FY25 and $150,000 in FY26 (total of $350,000 over two years) "Capacity Building" grants to the Bay Area Community Land Trust to support expanded participation in the City's Small Sites Program.	Health, Housing, & Community Services
Hahn	X	CARE Program for Berkeley Fire	110,000	40,000	One-Time	$40,000 per year for Pilot Project to Screen for Cancer; $70,000 in FY25 (Furniture, Fixtures, and Equipment) upgrades to all Fire Stations; consider other items as part of AAO1	Fire
Hahn	X	CARE Program for Berkeley Fire	103,000	206,000	On-Going	Fire Mechanic	Fire
Wengraf, Taplin, and Hahn	X	$70,000 to Evaluate Pedestrian Safety and Implement Solutions on Euclid Avenue between Eunice Street and Bay View Place	70,000	-	One-Time	Evaluate Pedestrian Safety and Implement solutions on the short stretch of Euclid Ave between Eunice Ave and Bay View Place, including the crossings at Eunice and between Codornices Park and the Jane Hammond Field and the Berkeley Rose Garden and west side of Euclid.	Public Works

Fiscal Years 2025 and 2026 Adopted Budget
General Fund Supported Requests and Referrals by Department (Continued)

Requestor	Budget Referral	Expenditure Type/Description	FY 2025 Adopted Funding	FY 2026 Adopted Funding	Type of Request	Reason for Request	Lead Department
Wengraf	X	Crossing Guard for Cragmont School	22,000	22,000	One-Time	Crossing Guard for Cragmont Elementary School at the intersection of Regal Rd. and Spruce Street.	Public Works
Wengraf, Humbert, and Taplin	X	City of Berkeley Annual Holocaust Remembrance Day	7,000	7,000	One-Time	City of Berkeley's Annual Holocaust Remembrance Day Program.	City Manager's Office - Office of Economic Development
Wengraf	X	Equipment for Hybrid Commission Meetings	110,000	-	One-Time	Infrastructure costs to conduct hybrid city commission meetings.	Information Technology / City Clerk
Wengraf	X	Civic Center Plan Phase III – Advancing Pre-Design & Construction Activities for Berkeley's Maudelle Shirek and Veterans Buildings	300,000	-	One-Time	Civic Center Plan Phase III.	Public Works
Kesarwani	X	RFP for Food Security Non-Profits	200,000	200,000	One-Time	RFP for Food Security Non-Profits	Health, Housing, & Community Services
Mayor Arreguin	X	UC Theater Concert and Careers Program	50,000	50,000	One-Time	Workforce training program for high school and college age youth to learn concert promotion, management and music industry. City has funded since 2017.	City Manager's Office - Office of Economic Development
Hahn and Humbert	X	Budget Referral and Technical Support for the Aurora Theatre Company	150,000	-	One-Time	One-time emergency grant of up to $150,000 to the Aurora Theatre Company, pending information from staff about the availability of existing and other resources to support the organization. Conditioned on Aurora developing and submitting to the City a viable fiscal recovery plan within 9 months.	City Manager's Office - Office of Economic Development
Humbert and Bartlett	X	Additional Security Cameras at Intersections Experiencing Increased Violent Crime	150,000		One-Time	To install additional security cameras in District 3 and 8	Public Works
Hahn, Wengraf, Taplin, and Humbert	X	Funding to Protect Pedestrian Safety on Upper Marin Avenue	-	-	One-Time	Study and implementation of traffic control measures on upper Marin Avenue to address urgent safety needs for pedestrians. Reallocate up to $200k from Hopkins project for this purpose.	Public Works

Fiscal Years 2025 and 2026 Adopted Budget
General Fund Supported Requests and Referrals by Department (Continued)

Requestor	Budget Referral	Expenditure Type/Description	FY 2025 Adopted Funding	FY 2026 Adopted Funding	Type of Request	Reason for Request	Lead Department
Community Agency		Rising Sun Center for Opportunity	50,000	50,000	One-Time	Construction apprenticeship readiness program that offers intensive hands-on training along with a full year of job placement support and comprehensive wraparound services.	Health, Housing, & Community Services
Community Agency		Toolworks Inc/Lifelong- Site Based Tenancy Sustaining Services	47,665	47,665	One-Time	Provide case management to residents at UA Homes (74 units) and Erna P. Harris (34 units)	Health, Housing, & Community Services
Community Agency		Berkeley Flea Market	72,000		One-Time	To support maintenance and operations of the Flea Market given financial deficit and to create opportunities for staffing and programming augmentation to achieve financial stabilization	Planning

Measure U1 Budget and Forecast

	FY 2024 Adopted	FY 2024 Actuals	FY 2025 Adopted	FY 2026 Adopted	FY 2027 Estimate	FY 2028 Estimate	FY 2029 Estimate
Revenues							
Beginning Fund Balance	**$24,772,756**	**$14,800,640**	**$7,399,686**	**$8,148,756**	**$5,813,676**	**$750,799**	**($1,959,589)**
ADD: U1 Fund Balance transferred from the General Fund							
ADD: Revenues	**5,900,000**	**6,844,565**	**6,500,000**	**6,200,000**	**6,200,000**	**6,200,000**	**6,200,000**
Total Revenues and Available Fund Balance	**30,672,756**	**21,645,205**	**13,899,686**	**14,348,756**	**$12,013,676**	**$6,950,799**	**4,240,411**
LESS: Total Expenses	**7,027,248**	**14,245,519**	**5,750,930**	**8,535,080**	**11,262,877**	**8,910,388**	**6,450,628**
Personnel Costs [2]	*1,706,383*	*811,199*	*2,350,930*	*2,438,624*	*2,560,555*	*2,701,548*	*2,850,628*
HHCS (Measure O/Housing Trust Fund)	474,600	485,979	1,149,985	1,172,592	1,231,222	1,292,783	1,357,422
HHCS Staffing Study Phase 2 [3]	453,242		411,593	432,173	453,781	476,470	500,294
HHCS Staffing Study Phase 3				411593	432,173	466,746	504,086
Empty Homes Tax Staffing Costs & Admin Costs [4]	372,000	94,650	372,000				
Finance (Rev Dev Position & Admin Costs)	406,541	230,570	417,352	422,266	443,379	465,548	488,826
Non-Personnel and Other Program Costs	5,320,865	13,434,320	3,400,000	6,096,456	8,702,322	6,208,840	3,600,000
Small Sites/Community Land Trusts							
1638 Stuart/Small Sites loan (BACLT) -Contract # 31900285		-	-	-	-	-	-
1638 Stuart/Small Sites loan (BACLT) -Contract # 31900285		-	-	-	-	-	-
2321-2323 10th St./Small Sites loan (NCLT) -disburse in escrow - Contract # 32100097			-	-	-	-	-
2321-2323 10th St. loan (NCLT) - Contract # 32100097			-	-	-	-	-
1685 Solano / Small Sites (BACLT) pending request		250,000					
Small Sites Program - unallocated		-	-	-	-	-	-
Blake Apartments							
Housing Trust Fund		-	-	-	-	-	-
2001 Ashby predev (RCD) - Contract # 32000049		-	-	-	-	-	-
2527 San Pablo Ave (SAHA) - Contract pending		-	-	-	-	-	-
2012 Berkeley Way reserves (BRIDGE/BFHP) - Contract #32000250		3,023,365	-	-	-	-	-
Housing Trust Fund Program [7]	4,870,865				2,500,000	2,500,000	2,500,000
HTF Small Sites			2,500,000	2,500,000			
Development of New Housing Programs							
Capacity Building for Emerging Developers	200,000		0	200,000	200,000	200,000	200,000
Berkeley Unified School District Planning Grant		-	-	-	-	-	-
New Housing Programs/Land Trust/Coops		48,455	-	-	-	-	-
Review and Develop a Social Housing policy (Councilmember Taplin, Mayor Arreguin, Councilmembers Harrison and Hahn)		-	-	-	-	-	-
Anti-Displacement							
Rent Board (EDC & EBCLC)		-	550,000	550,000	550,000	550,000	550,000
East Bay Community Law Center (EBCLC)		-					
Housing Retention Program (EBCLC)		-					

Measure U1 Budget and Forecast

	FY 2024 Adopted	FY 2024 Actuals	FY 2025 Adopted	FY 2026 Adopted	FY 2027 Estimate	FY 2028 Estimate	FY 2029 Estimate
Eviction Defense Center (EDC)	250,000	112,500	250,000	250,000	250,000	250,000	250,000
Housing Retention Program / Eviction Defense							
Flexible Housing Subsidy Pool (BACS)		-	100,000	100,000	100,000	100,000	100,000
Additional City Priorities							
Berkeley Relief Fund		-	-	-	-	-	-
Landlord Incentives for Section 8 Participation		-	-	-	-	-	-
1001, 1011 University Ave. acquisition		-	-	-	-	-	-
Project Homekey Reservation (Round 3)		8,500,000					
West Berkeley Shellmound/1900 Fourth Street acquisition		1,500,000					
Transfer to Housing Trust Fund per court order							
Encampment Resolution Fund 2 Grant Match- Insight Housing/Super 8 [5]				2,496,456	2,535,186		
Encampment Resolution Fund 3 Grant Match- Dorothy Day House/ Howard Johnson [6]				-	2,567,136	2,608,840	
Fiscal Year Surplus (Shortfall)	**(1,127,248)**	**(7,400,954)**	**749,070**	**(2,335,080)**	**(5,062,877)**	**(2,710,388)**	**(250,628)**
Ending Fund Balance	**23,645,508**	**7,399,686**	**8,148,756**	**5,813,676**	**750,799**	**(1,959,589)**	**(2,210,216)**

Notes:
(1) In FY 2021, a separate fund was created for Measure U1 with the General Fund revenues being transferred into the fund. Beginning negative fund balance due to split payroll charges to FY 2020.
(2) Personnel Costs from FY 2027 to FY 2029 assumes a 5% increase in salary and benefit costs.
(3) Consist of 1 Community Services Specialist I, 1 Program Manager II and $10,000 for staffing costs
(4) Consists of Accounting Office Specialist III (Finance) 0.25 FTE - $38,750; Rent Board costs for 1 FTE Associate Planner and 1 FTE Office Specialist II, Mailing Costs for Outreach and Noticing of $10,000; and 7.4% Overhead Costs for Counselors, General Counsel, and Office of Executive Director. Funding in FY 25 and beyond may be shifted to General Fund once revenues are realized.

03

CONSENT CALENDAR
May 20, 2025

To: Honorable Mayor and Members of the City Council

From: Disaster and Fire Safety Commission

Submitted by: Greg Murphy, Chairperson

Subject: Remove pre-transfer eligibility restriction of the transfer tax rebate for wildfire hardening

RECOMMENDATION

Adopt first reading of an ordinance removing the 1-year pre-transfer eligibility restriction of the transfer tax rebate for wildfire hardening from BMC 7.52.060, to encourage early mitigation efforts.

FISCAL IMPACTS OF RECOMMENDATION

Increased utilization of the transfer tax exemption will result in less revenue to the City. Reduced risk of significant costs due to wildfire disaster.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley has responded to wildfire risk with a variety of mitigation measures to improve prevention. One type of mitigation measure to reduce risk is through home "hardening" which is the process of increasing resistance to wildfire by replacing combustible materials with ignition resistant and/or non-combustible materials and other scientifically proven actions including:

- Reducing the home's vulnerability to heat.
- Creating fire-resistant surfaces
- Blocking any potential points of ingress for embers and other flammable material.

Retrofitting our homes against seismic damage and destruction has proven to be good policy; hardening against wildfire will be as well.

On September 10, 2024, the council approved the first reading of the Ordinance amending BMC 7.52.060 to include "Wildfire Hardening" in the Real Property Transfer Tax Exceptions. While this encourages homeowners to implement wildfire hardening at the time of sale, the limitation of eligibility to projects undertaken within a year prior to the time of transfer discourages early action, and, to the extent that such measures could be required within Fire Zone 4 as part of EMBER or a future program, dampens the ability to require the recommended measures without imposing hardship. It appears that this was an unintended consequence of the original action.

Therefore, the Commission recommends that the City Council amend Berkeley Municipal Code 7.50.060.L.3 to strike the words “up to one-year” from the current ordinance. The Commission notes that the existing rebate program for seismic upgrades does not have a one-year restriction prior to sale. While the point of sale is often an important opportunity for home renovations, the recent adoption of this ordinance with a one year prior to sale restriction could have the unintended consequence of discouraging homeowners from making wildfire hardening improvements early. Project delivery and property transfer dates are also subject to delay, which contributes to uncertainty, thereby discouraging action without this correction. Possible concerns to address permanence and verification should be studied over the next few years to integrate appropriate documentation filing requirements and/or re-inspection.

The inherent wildfire risk Berkeley faces because of the natural topography and weather conditions is increasing due to climate change which is bringing more frequent and substantial draughts, and higher temperatures. The City of Berkeley has and will continue to implement strategies that reduce the wildfire risk to our community, and should a wildfire occur, improve the emergency response. However, the City is able to address only part of the wildfire risk that the community faces as much of the risk within the City proper lies on private property in the form of structures that pre-date modern fire resistive building codes. While some of the retrofit work that must occur is inexpensive, much of it is expensive and requires professionals. Thus, there is a significant challenge to getting this work completed, even for motivated residents. There is a need to be nimble and adapt our legislation to incentivize the work we know has to get done, work that will help slow an advancing fire so firefighters can protect the community. This amendment will provide an opportunity and mechanism for the City to incentivize homeowners in making these improvements.

Action: Motion to approve the Commission recommendation Katz. Second: Kinosian.

Votes: Ayes:	7	Katz, Wilson, Bradstreet, Herzer-Baptiste, Gordon, Murphy, Kinosian;
Noe’s:	0	
Abstain:	0	
Absent:	2	Dean, Darling

BACKGROUND

Maintaining our housing stock is essential to the health and welfare of our city. The impacts from a wildfire are not just seen in the structures; it has devastating consequences on mental health, individual sense of security, and our financial stability as a community. The Loma Prieta Earthquake took the Bay Area by surprise on October 17,1989. According to the California Department of Conservation, that 6.9 magnitude earthquake killed 63 people, injured close to 4,000 and displaced over 12,000 people. Less than two years later, June 25, 1991, Berkeley City Council voted for an exception on transfer property taxes to help homeowners pay for seismically upgrading their homes, and BMC 7.52.060, Sub-section K was established. In the last 10 years, the Finance Department processed approximately 1,200 seismic upgrade rebates for a total of $7.2M. Since the seismic retrofit exception was included in BMC 7.52.060 in 1991 no expanded safety exceptions have been added. The City of Berkeley is in one of the highest wildfire risk areas in the state. We have a long history of catastrophic wildfire here in Berkeley.

Most notably, in 1923, when a wildfire destroyed more than 600 homes, leaving more than 1,000 residents homeless. In 1991, the Berkeley/Oakland Tunnel Fire was responsible for 25 deaths and destroyed more than 3,000 homes. In 2024 valuation, that conflagration cost 4 billion dollars. Now is the time to improve and adapt policies, and help residents harden their homes against wildfire. Fire science studies are decisive. Wildfire hardening reduces the chances of a home catching fire.

ALTERNATIVE ACTIONS CONSIDERED

- The Commission previously evaluated requiring that some investment to harden against wildfire while making major renovations and / or additions to the property will comply owners to undertake these important upgrades and reduce our vulnerability to destruction and damage as a result of a wildfire. This approach was found to be difficult for the Building Department to implement in a broader area, indicating that incentive approaches are important until staff can develop more experience after implementation of these aspects of the EMBER program within Fire Zone 4.
- The Commission considered recommending that pre-transfer rebate value be indexed to inflation, so homeowners not planning to transfer property ownership in the near term retain the real value of the incentive. The Commission did not recommend this feature at this time based on the Council declining to adopt a similar, although higher inflation adjustment for the rebate of home energy efficiency deposits. This feature could be considered in the future after further review.

CITY MANAGER

The City Manager concurs with the content and recommendations of the Commission's report to the extent that it can incentivize Berkeley residents to perform work on the homes in an effort to reduce fire ignition and spread. The City Manager also acknowledges that increased use of the transfer tax exemption will result in reduced revenues to the City. However, given the limited number of homes that would likely take advantage of the exemption, the overall impact to the City is not anticipated to be significant.

CONTACT PERSON
Keith May, Commission Secretary, Deputy Fire Chief, (510) 510-981-5508.

Attachments:
1: Ordinance Amending Sections of 7.52.060 of the BMC

ORDINANCE NO. #### -N.S.

AMENDING SECTIONS 7.52.060 OF THE BERKELEY MUNICIPAL CODE
BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code 7.52.060, Real Property Transfer Tax Exceptions, Sub-section L, is amended to read as follows:

BMC 7.52.60 Sub-section L

L. 1. Up to one-third of the tax imposed by this chapter shall be rebated, on a dollar for dollar basis, for all expenses incurred on or after January 1, 2025 to "wildfire harden" either any structure which is used exclusively for residential purposes, or any mixed-use structure which contains two or more dwelling units. Multiple rebate applications may be submitted for a partial rebate of the tax paid. However, the total rebate for any combination of seismic retrofit and/or wildfire hardening shall not exceed the maximum of one-third (1/3) of the tax paid per property.

2. The term "wildfire harden" within the meaning of this chapter means work which is the process of increasing resistance to wildfire by replacing combustible materials with ignition resistant and/or non-combustible materials and other scientifically proven actions. The work must be permanent and not vegetation management or gardening adaptations that require continued maintenance. To be eligible for a rebate, the parcel level mitigations set forth in the California Department of Insurance “Safer from Wildfires” Framework REG-2020-00015 adopting California Code of Regulations Title 10, Chapter 5, Subchapter 4.8, Article 4, Section 2644.9 must be satisfactorily completed as determined by the Building Official (when a permit is required) and a Berkeley Fire Department Defensible Space Inspection. These include:

(a) All improvements must be permanent and comply with design, material and construction methods as described in the California Building Code, Chapter 7A. and BMC 19.28.030.

(b) Structures with a wood shake roof must be replaced with a Class A fire rated roof before qualifying for the transfer tax rebate.

(c) Clearing combustible materials including fences and gates, and all movable combustible objects, from the area within five (5) feet of the building being evaluated (Replace with only noncombustible materials.).

(d) At least six (6) inches of noncombustible vertical clearance at the bottom of the exterior surface of the building, measured from the ground up.
(e) Fire-Resistant Vents and Gutter Covers of 1/16 to 1/8 inch noncombustible, corrosion-resistant metal mesh or OSFM Category 8165 approved ember resistant vents.

(f) Multi-paned windows, including dual pane windows, or functional shutters, which when closed, cover the entire window and do not have openings. (g) Enclosed eaves.

(h) Remove combustible materials and debris from under decks and installation of non-combustible siding or ember resistant mesh of 1/8” or finer around deck perimeter.

(i) Removal or absence of combustible structures, including sheds and other outbuildings, from the area within thirty (30) feet of the building being evaluated or, in the event that the applicant does not control the entirety of the area extending thirty feet from the building being evaluated, removal of combustible structures from as much of such area as is under the control of the applicant.

(j) Block spaces between roof covering and sheathing with noncombustible materials (bird stops).

(k) The property upon which the building being evaluated is situated complies with Section 4291 of the Public Resources Code, when applicable, and any applicable local ordinances, governing defensible space.

(l) Any other work found by the Building Official or Fire Marshal (or their designee) to substantially increase the capability of those structures, specified in subsection L.1, to withstand destruction or damage in the event of a wildfire.

3. The work to wildfire harden as provided herein shall be completed either ~~up to one year~~ prior to the transfer of property or as provided in subsection L.5.

4. If the work to wildfire harden structures and property provided for herein is to be performed after the transfer of property which is subject to the tax imposed by this chapter, upon completion of such work and certification by the building official as to the amount of the expenses of such work the City Manager or their designee may refund such expenses not to exceed one-third of the tax imposed to the parties to the sale in accordance with the terms of such sale. Any remaining tax shall be retained by the City.

5. From the date of the recordation of the transfer document, the applicant shall have one year to complete all wildfire hardening work and submit a wildfire

hardening verification application to the Codes and Inspection Division of the City of Berkeley. If the work is not completed at the end of one year, that portion which has been completed may be credited as a rebate to the applicant upon submission of a Home Hardening verification application and substantiating documentation, as required by the codes and inspections division of the City of Berkeley, showing the dollar amount of work completed up to that date.

6. Within the one-year period established by paragraph 5, an applicant may request, and the City Manager may approve, an extension of up to one year. The City Manager or their designee may grant such an extension only for good cause. The decision of the City Manager or their designee shall be entirely within their discretion and shall be final.

(a) "Good cause" includes (i) the inability of the applicant, after a prompt and diligent search to find and retain the services of an architect, engineer, contractor or other service provider whose services are necessary for the Home Hardening work; (ii) unforeseen and unforeseeable circumstances such as a significant change in the scope of the Wildfire Hardening work due to circumstances in the field which could not reasonably have been known earlier; and (iii) serious illness or other extraordinary and unforeseeable circumstances that prevented the timely commencement or completion of the Wildfire Hardening work.

(b) "Good cause" does not include (i) ignorance of the applicable City ordinances or regulations concerning the Wildfire Hardening rebate provided in this chapter or state or local laws relating to the standards with which wildfire hardening work must comply; or (ii) any delays which were within the control or responsibility of the applicant.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

04

BERKELEY CITY COUNCILMEMBER
TERRY TAPLIN
DISTRICT 2

Budget and Finance
June 17 2025

To: Honorable Mayor Ishii and Members of the City Council

From: Councilmember Terry Taplin (Author), Councilmember Bartlett (Co-Sponsor)

Subject: Recommendations for the Formulation of Advanced Fiscal Policies to Institutionalize Strategic Bond Issuance, Optimize Municipal Investment Returns, and Leverage Intergovernmental and Philanthropic Capital Funding.

RECOMMENDATION

1. Establish a Structured Bond Issuance Framework
   Refer to the City Manager development and presentation to the Council of a comprehensive fiscal policy that institutionalizes a regular, predictive schedule for general obligation bond issuance. This policy should be informed by actuarial and capital market analysis of the City's bonding capacity and be modeled on established frameworks utilized in fiscally disciplined jurisdictions such as San Francisco and Santa Monica. The goal is to remediate the City's substantial deferred maintenance liabilities and strategically advance the Capital Improvement Program (CIP).

2. Modernize Investment Policy and Establish a Capital Grant Matching Fund
   Refer to the City Manager the enactment of a detailed review and performance benchmarking of the City's current investment policies, ordinances, and resolutions. Based on this review, the City Manager should recommend:
   - Amendments to align Berkeley's portfolio management practices with those of peer jurisdictions in the Bay Area;
   - Asset strategies that maintain compliance with CA Government Code §53600 et seq. while improving yields through enhanced diversification and duration matching;
   - Establishment of a dedicated Capital Grant Matching Fund, capitalized with a designated portion of net investment returns, to maximize Berkeley's competitiveness in securing grants under federal programs such as the Infrastructure Investment and Jobs Act (IIJA), the Inflation Reduction Act (IRA), and state-funded resilience initiatives.

3. Develop a Comparative Bond Issuance Analysis and Timeline
   Refer the City Manager to conduct a comprehensive analysis of historical general obligation bond issuance and debt service rates in Berkeley and comparable jurisdictions. The analysis should:

- Examine 30 years of municipal bond trends, showing the consistency of low interest rates during fiscally disciplined cycles;
- Compare Berkeley's historical borrowing costs with those of San Francisco, Santa Monica, and Palo Alto;
- Demonstrate the efficacy of maintaining a regular issuance schedule every 6–10 years to preserve low borrowing rates and steady bond ratings;
- Present a 30-year fiscal projection showing that with prudent debt layering and consistent retirement of obligations, Berkeley can issue up to $250–$300 million in bonds in successive tranches while maintaining fiscal health and AAA-quality debt service coverage ratios.

The City Manager is requested to return with a projected 25–30 year financing timeline that identifies capital milestones, projected issuances, debt service loads, and cost-saving thresholds compared to inflation-driven delays. This timeline shall be paired with policy recommendations to ensure adherence to long-range financial planning objectives.

CURRENT SITUATION AND ITS EFFECTS

Berkeley faces a growing infrastructure deficit exceeding $1 billion, driven by long-deferred maintenance, rising construction costs, and insufficient capital funding mechanisms. The City's investment-grade bond ratings (Moody's Aa2; S&P AA) position it favorably to issue debt at competitive rates, yet the absence of a formalized bond issuance framework prevents the City from fully leveraging its credit capacity.

Waterfront Capital Liabilities

Key waterfront and Marina-related projects facing urgent capital needs include:

- Berkeley Pier Replacement: Closed in 2015 due to structural failure. Replacement is estimated at $50–70 million, with annual cost escalation exceeding 6%.
- Marina Infrastructure Overhaul: Docks, utility lines, lighting, and gangways require comprehensive upgrades. Estimated need: $15–25 million.
- Shoreline Armoring and Seismic Resilience: Required for adaptation to sea-level rise. Estimated capital: $20+ million.
- Access and Surface Improvements: ADA-compliant realignments and pavement reconstruction are estimated at $5–8 million.

The Marina Fund remains fiscally constrained and cannot absorb these capital needs without structural subsidy or external financing.

City Facility Repair and Seismic Modernization Needs

Deferred maintenance and life-safety deficiencies persist across several major civic structures:

- Frances Albrier Community Center: Seismic retrofitting and HVAC modernization estimated at $15 million.
- Old City Hall: Unoccupied due to seismic risk and systems degradation. Renovation estimated at $50–60 million.

- Veterans Memorial Building: Structural stabilization and ADA compliance upgrades estimated at $35–40 million.
- MLK Jr. Civic Center: Systemic repairs for HVAC, elevators, and roofing exceed $20 million.

The 2018 Citywide Facilities Condition Assessment categorized more than 60% of buildings as in "poor" or "failing" condition, with an annual cost escalation rate estimated at 6–10%.
The absence of an integrated financial roadmap has resulted in cost inefficiencies and diminished public confidence. Berkeley's long-standing practice of episodic, reactive capital funding has inhibited the City's capacity to effectively address urgent infrastructure vulnerabilities and to plan for resilience-oriented modernization.

BACKGROUND

Numerous California municipalities—including San Francisco, Oakland, and San José—have successfully implemented coordinated fiscal strategies combining systematic bond issuance with active investment management and capital matching mechanisms. These jurisdictions have improved capital delivery while lowering financing costs and increasing access to competitive grants.
In contrast, Berkeley's recent experience with public bond measures underscores the need for clearer fiscal governance and improved public engagement:

- Measure T1 (2016): Authorized $100 million in general obligation bonds. Although initially successful, several project components exceeded their original budgets due to planning and management challenges:
    - Strawberry Creek Park: 40% over budget due to unexpected subsurface conditions and underestimation of permitting costs.
    - Ohlone Park Renovations: Experienced project delays, contractor bid variability, and scope creep, resulting in a 25% cost increase from original estimates.
    - Willard Clubhouse: Required extensive ADA and systems upgrades not captured in initial scoping.

- These overruns stemmed from factors including inflationary pressures in construction markets, insufficient early-stage geotechnical assessments, evolving regulatory requirements, and staffing limitations in project management. Lack of contingency funding and rigid project timelines exacerbated these challenges, eroding community trust and highlighting the need for greater fiscal agility and programmatic transparency in future capital cycles.

- Measure L (2022): A $650 million bond proposal for infrastructure investment failed to reach the two-thirds voter threshold. Analysts and civic groups—including the Berkeley Budget & Finance Policy Committee, the League of Women Voters of Berkeley, Berkeley Neighborhoods Council, and Berkeleyans for a Livable City—identified the following issues in post-election assessments:

- Insufficient project prioritization and lack of transparency;
- Poor public communication of long-term fiscal benefits;
- Limited accountability frameworks following Measure T1;
- Inadequate voter outreach and engagement.

- These critiques were substantiated in multiple forums. The Berkeley Budget & Finance Policy Committee published their concerns in meeting minutes from September 2022, highlighting a failure to articulate value to voters and the absence of a multi-year capital financing strategy. The League of Women Voters issued a position paper recommending improved fiscal transparency, while Berkeleyans for a Livable City conducted a comparative policy analysis drawing on best practices from Palo Alto and Emeryville. Collectively, these analyses underscore the need for a holistic fiscal strategy that integrates investment management with proactive capital financing.

RATIONALE

The integration of strategic bond issuance and modernized investment policy is essential to Berkeley's long-term fiscal health. These reforms will:

- Enhance the City's ability to execute capital projects on time and within budget;
- Reduce long-term liabilities and cost escalations associated with deferred maintenance;
- Maximize internal financing capacity and improve competitiveness in external funding rounds;
- Provide predictable financial planning horizons aligned with capital programming;
- Strengthen public confidence through greater transparency and fiscal discipline.

Strategically leveraging investment earnings via a matching grant fund is a forward-looking mechanism that turns financial efficiency into external revenue, magnifying the City's capital resources. This model aligns with both fiduciary best practices and intergovernmental funding paradigms that increasingly prioritize local match capacity.

Furthermore, comparative analysis of historical municipal bond service costs reveals that jurisdictions adhering to a consistent 6–10 year issuance schedule tend to stabilize borrowing costs, maintain high bond ratings, and secure favorable investor confidence. This layered approach to debt issuance and retirement avoids fiscal spikes, allows for transparent cash flow forecasting, and aligns debt service with infrastructure life cycles.

Based on peer practices and Berkeley's current assessed valuation growth, it is fiscally viable to issue a series of general obligation bonds totaling $250–$300 million over the next 25–30 years, without breaching responsible debt thresholds. Doing so would allow the City to systematically address its backlog of infrastructure liabilities, minimizing cost escalation due to delays and creating a financially resilient public capital framework.

FISCAL IMPACTS OF RECOMMENDATION

Implementation costs may include consulting and legal services for policy drafting and portfolio reallocation. However, the long-term fiscal benefits include:

- Avoidance of inflation-driven capital cost increases;
- Greater access to grant programs requiring local matches of 20–50%;

BERKELEY CITY COUNCILMEMBER
TERRY TAPLIN
DISTRICT 2

- Higher returns on city investments through optimized strategies;
- Lower borrowing costs through well-timed bond issuances;
- Multiplicative gains in external revenue through matching mechanisms.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Improved access to capital will support environmentally strategic projects including:

- Coastal flood resilience and shoreline restoration;
- Decarbonization of public buildings and fleet electrification;
- Sustainable stormwater management;
- Transit and multimodal infrastructure expansion.

A dedicated matching fund will allow the City to aggressively pursue funding from climate-focused programs such as FEMA's BRIC, CalEPA Green Infrastructure Grants, and the California Resilience Challenge.

ALTERNATIVE ACTIONS CONSIDERED

- Maintain Status Quo: Fails to address growing infrastructure needs and rising costs.
- Ad Hoc Bond Measures: Inefficient, lacks transparency, and depends on unpredictable electoral outcomes.
- New Dedicated Tax Instruments: Politically complex and time-intensive with uncertain outcomes.

CONTACT PERSON

Terry Taplin, Councilmember, District 2
Phone: (510) 981-7120
Email: ttaplin@berkeleyca.gov

ATTACHMENTS

1. FY 2025–2029 Capital Improvement Program (CIP)y

2. City of Berkeley Investment Policy

3. Berkeley Waterfront Specific Plan (Draft, November 2024)

4. Measure T1 Bond Policies and Procedures Manual

5. Measure L Bond Measure Information (November 2022)

6. Infrastructure Assessment Report (2021)

7. Budget & Finance Committee Agenda Packet (April 24, 2025)

BERKELEY CITY COUNCILMEMBER
TERRY TAPLIN
DISTRICT 2

Measure L
Bond Measure

Shall the measure to create affordable housing; repair streets and sidewalks; underground utilities; and enhance buildings, infrastructure, and safety, authorizing the issuance of $650 million in general obligation bonds, subject to independent oversight and audits, be adopted?

Financial Implications

Median annual cost over the projected 48-year period bonds are outstanding is approximately $40.91 for every $100,000 or $265 for the average assessed home value of $647,000; raising approximately $25,000,000/year.

City Attorney's Impartial Analysis of Measure L

This measure was placed on the ballot by the City Council of the City of Berkeley ("City").

If the measure is approved by two-thirds of the electors voting on it, the City would be authorized to issue $650 million of general obligation bonds to finance the acquisition and improvement of real property for affordable and social housing ("Affordable Housing Improvements") and public infrastructure and facilities ("Infrastructure Improvements") (collectively, the "Improvements").

For the Affordable Housing Improvements, proceeds of the bonds will be used to acquire or improve affordable and social housing either by the City directly or indirectly through third parties.

Proceeds of the bonds may be used to reimburse the City for amounts advanced from the general fund or other funds or accounts to pay for expenditures on the Improvements that are paid prior to the availability of bond proceeds.

The City may have the opportunity to leverage federal, state, county and regional funds allocated for the Improvements if it issues the bonds.

This measure includes financial accountability requirements to ensure that the expenditure of bond proceeds will be used for the purpose of financing Improvements and related costs. Financial accountability measures include an annual independent financial audit and annual oversight by an Affordable Housing and Infrastructure Bond Oversight Committee appointed by the City Council. In addition, the City Manager would be required to file an annual report with the City Council regarding the amount of bond funds collected and expended, as well as the status of the Improvements. Relevant City commissions would also make recommendations on projects and expenditures proposed to be funded by the bonds.

This measure provides that the maximum rate of interest to be paid on the bonds shall not exceed twelve percent (12%), though the prevailing interest rates could be less.

Financial Implications:
The bonds will be payable from ad valorem taxes levied on real property in the City of Berkeley. The City estimates that the median annual tax rate over the 48-year period that the bonds are projected to be outstanding would be approximately $40.91 for every $100,000 of assessed value, or $265 for the average assessed home value of $647,000. The City estimates that the average (mean) annual tax rate that would be required to be levied is approximately $39 for every $100,000 of assessed value. The City estimates that the highest tax rate that would be required to be levied is approximately $71 per $100,000 of assessed value, which the City projects will begin to apply in 2041-42.

The City estimates that the total debt service, including the principal and interest, that would be required to be repaid if all the bonds are issued and sold is $1,125,000,000.

The above statement is an impartial analysis of Measure L.

s/FARIMAH FAIZ BROWN
Berkeley City Attorney

MEASURE TO BE SUBMITTED TO THE VOTERS AUTHORIZING THE CITY OF BERKELEY TO ISSUE GENERAL OBLIGATION BONDS TO FINANCE THE ACQUISITION OR IMPROVEMENT OF REAL PROPERTY FOR AFFORDABLE HOUSING, STREET AND SIDEWALK REPAIR, TRAFFIC SAFETY, UNDERGROUNDING OF UTILITIES, CLIMATE CHANGE RESILIENCE, AND OTHER PUBLIC INFRASTRUCTURE AND FACILITIES

Section 1. Title

This measure shall be known as the Affordable, Safe and Sustainable Berkeley Bond Act.

Section 2. Findings.

WHEREAS, the City of Berkeley (the "City") is committed to creating and maintaining an equitable, affordable, and resilient City with housing opportunities for all, safe and well-maintained infrastructure, and a public commons that welcomes and supports people of all ages, abilities, and backgrounds; and

WHEREAS, the urgent need for affordable housing and preventing homelessness, the accelerating impacts of climate change, and aging public buildings and infrastructure create challenges for safety, equity, sustainability, and resilience; and

WHEREAS, the Berkeley City Council (the "City Council") has identified critically needed investments in affordable housing; improved streets and sidewalks; green, vibrant, and well-maintained parks, streetscapes and other open spaces; pedestrian and bicycle safety improvements; public and historic buildings; recreational facilities, pools, and the waterfront; and above- and below-ground infrastructure as integral to protecting the quality of life for all Berkeleyans and to the City's long-term vitality; and

WHEREAS, the City Council recognizes the existence of an acute housing crisis that has caused housing to become increasingly scarce, expensive, and out of reach for teachers, seniors, people with disabilities, students, veterans, the homeless, and for families and individuals with incomes at extremely low-, very low-, low-, and middle-income levels; and

WHEREAS, successful programs initiated in recent years have decreased overall homelessness in Berkeley, but estimates project there are still roughly 1,000 homeless people in the City on any given night; and

WHEREAS, providing affordable housing for low-income and unhoused persons is important to alleviate the housing crisis and reduce the impacts of unsheltered homelessness on our streets, parks, and other public spaces; and

WHEREAS, in November 2018, Berkeley voters overwhelmingly approved Measure O, authorizing the City to issue $135 million dollars in general obligation bonds for the purpose of building and preserving affordable housing; and

WHEREAS, leveraging Measure O funds with County, State, and Federal dollars, the City has provided 20 affordable housing projects with pre-development or development funding, supporting the construction and rehabilitation of approximately 800 affordable housing units citywide; and

WHEREAS, in 2022 Berkeley's first Measure O-funded affordable housing projects opened their doors at 1601 Oxford Street in North Berkeley and 2012 Berkeley Way in the Downtown, welcoming seniors, working families, veterans, and formerly homeless individuals into new homes with on-site supportive services; and

WHEREAS, the pace of affordable housing production has exceeded expectations and all Measure O funds have been allocated through commitments to existing and pending affordable housing projects; and

WHEREAS, the Regional Housing Needs Allocation for the San Francisco Bay Area requires that Berkeley plan for and incentivize the production of over 3,800 affordable housing units over the next eight years, and current funding is insufficient to finance this volume of affordable homes; and

WHEREAS, funds available through this bond measure can support production of over 1,000 additional affordable housing units citywide, providing urgently needed housing for extremely low-, very low-, low-, and middle-income families and individuals, and helping the City achieve its goal of at least 10% reserved affordable housing citywide by 2030; and

WHEREAS, the City's *Vision 2050 Framework* and *Program Plan* are comprehensive plans to build, upgrade, and repair Berkeley's infrastructure and facilities to be more sustainable, safe, and resilient and to meet the needs of future generations, including addressing climate and environmental challenges; and

WHEREAS, much of Berkeley's public infrastructure was built over 75 years ago and is in need of refurbishment, modernization, and repair; and

WHEREAS, over $1 billion dollars in infrastructure needs have been identified citywide, including improvements needed for street pavement, sidewalks, paths, and bikeways; bike, pedestrian and other traffic safety projects; undergrounding of utilities on evacuation routes; measures to reduce the risk and impacts of climate change, including flooding through stormwater and sea level rise; improvements to City parks, camps and pools, including a proposed pool at San Pablo Park; revitalization of Berkeley's historic Civic Center as a cultural and civic hub for the community; improvements to the Berkeley waterfront and pier; improvements to public buildings; measures to make the City's streetscapes and other public spaces more attractive, vibrant, and green; and other improvements to the City's infrastructure to make it more sustainable, enjoyable, and resilient; and

WHEREAS, in addition to hundreds of millions in infrastructure needs, the City has identified approximately $248 million in necessary street repairs; and Berkeley's pavement condition is currently classified as "at risk" condition by the Metropolitan Transportation Commission; and failure to make urgently needed street repairs in a timely manner will result in the need for more costly repairs in the future; and

WHEREAS, building climate-resilient infrastructure, including undergrounding of utilities on evacuation routes and managing stormwater runoff and sea level rise, will reduce the risk of flooding, earthquakes and wildfires and make Berkeley a safer and more sustainable place to live; and

WHEREAS, in 2016 Berkeley voters overwhelmingly approved Measure T1, a $100 million general obligation bond whose proceeds are being used to rehabilitate parks, infrastructure, and facilities citywide, including at the Frances Albrier Community Center, Live Oak Community Center, Strawberry Creek Park, Tom Bates Regional Sports Complex, Willard Park, George Florence Park, North Berkeley Senior Center, the Rose Garden, San Pablo Park, Harrison Park, the Marina, Aquatic Park, John Hinkel Park, King Pool, Grove Park, Civic Center Park, Ohlone Park, and Cazadero Camp; and at streets, sidewalks, storm drains, and other infrastructure; and

WHEREAS, the full $100 million of Measure T1 bond monies has already been allocated or committed to identified projects and the City has successfully leveraged regional, County, State, and Federal funds for these improvements, representing a significant gain for Berkeley; and

WHEREAS, to build on the success of projects funded through Measures O and T1 and to continue financing affordable housing and necessary improvements to facilities and infrastructure citywide, the City requires additional funds, which may be leveraged with regional, County, State, and Federal funds; and

WHEREAS, Section 7.64 of the Berkeley Municipal Code authorizes the City to issue general obligation bonds to finance the acquisition, construction, or completion of any municipal improvements and the acquisition, rehabilitation, preservation or construction of affordable housing; and

WHEREAS, the City is authorized to issue general obligation bonds pursuant to certain provisions of the California Government Code, including Article 1, commencing with Section 43600, of Chapter 4 of Division 4 of Title 4 or Article 4.5, commencing with Section 53506, of Chapter 3 of Part 1 of Division 2 of Title 5 (each, the "Bond Law"); and

WHEREAS, under the Bond Law and Chapter 7.64, the City intends to issue general obligation bonds (the "Bonds") to finance the acquisition or improvement of real property for affordable and social housing ("Affordable Housing Improvements"), including the application of bond proceeds by the City directly, or indirectly through third parties as loans, grants, or other disbursements to qualified individuals, not-for-profit entities acting alone or together with tax credit investors, not-for-profit corporations, partnerships,

associations, and government agencies, to acquire real property for the purpose of constructing, rehabilitating or preserving affordable and social housing, or to construct, rehabilitate or preserve affordable and social housing; including but not limited to newly constructed non-profit rental and ownership housing, supportive housing, and limited-equity housing cooperatives affiliated with community land trusts; and

WHEREAS, under the Bond Law and Chapter 7.64, the City further intends to issue the Bonds to finance the acquisition or improvement of real property for public infrastructure and facilities ("Infrastructure Improvements"; together with Affordable Housing Improvements, "Improvements"), including but not limited to the City's streets (including pavement, traffic safety, pedestrian, accessibility, bicycle, and streetscape improvements), sidewalks and paths; public utilities, including the undergrounding of utilities on evacuation routes; parks, the waterfront and pier, and other natural and landscaped areas; pools, recreation, and senior facilities; camps; buildings; storm drains, streetscapes, and green infrastructure; civic, historic, and cultural sites; and other public open spaces, buildings, infrastructure, facilities, and amenities, including construction, repair, renovation, replacement, or reconstruction, so that the public can continue to benefit from safe, more sustainable, resilient, and enjoyable Infrastructure Improvements, and the Infrastructure Improvements will include any public art integrated into the Infrastructure Improvements consistent with Berkeley Municipal Code Chapter 6.13; and

WHEREAS, funding from the Bonds should be guided by the City Council's plans and policies, as may be amended from time to time, including the *Vision 2050 Framework* and *Program Plan* whose vision for a renewed City includes safe and enjoyable community facilities; safe and sustainable streets; resilient and climate-friendly infrastructure; and open space, parks, and recreation facilities that improve Berkeley's quality of life; and

WHEREAS, the City Council recognizes the importance of ensuring adequate maintenance funding from existing sources for Infrastructure Improvements financed by the Bonds and not supplanting existing City infrastructure funding with proceeds of the Bonds; and

WHEREAS, the City Council through Resolution No. 70,456-N.S. has adopted a fiscal policy to allocate $8 million annually in General Fund monies for street maintenance (the "Street Maintenance Funding Policy"), to be adjusted annually for inflation. The allocation is intended to augment the existing street paving budget of $7.3 million, for a total street maintenance commitment of $15.3 million annually, adjusted for inflation; and

WHEREAS, the Street Maintenance Funding Policy will help ensure that street maintenance is supported by adequate ongoing General Fund contributions as one-time infusions of paving resources provide only temporary improvement to pavement conditions, which deteriorate again without appropriate funding for maintenance; and

WHEREAS, the City's plans and policies, including but not limited to the Vision 2050 Program Plan; pavement management system; and Transportation, Vision Zero, Bicycle,

and Pedestrian plans, as adopted or amended by the City Council from time to time, will guide how proceeds of the Bonds are spent; and

WHEREAS, fiscal accountability protections including public disclosure of all spending and annual independent audits and oversight will help ensure funds will be spent as promised; and

WHEREAS, by law, all funds must remain under local control in the City and cannot be taken away by the State, County, or Federal governments or used for other purposes; and

WHEREAS, this measure is adopted pursuant to and in conformance with Chapter 7.64 of the Berkeley Municipal Code; and

WHEREAS, the City Council has therefore determined that the public interest requires additional funding for the Improvements; and

WHEREAS, the People of the City of Berkeley find that the public interest requires the issuance of the Bonds in the amount of $650,000,000 to fund the Improvements.

Section 3. Object and Purpose of Bonds.

This measure (the "Measure") authorizes the issuance of general obligation bonds (the "Bonds"), the object and purpose of which is to finance, by the City of Berkeley or a third party, as applicable, the acquisition or improvement of real property for the Improvements.

The Improvements will be completed as needed, and each is assumed to include its share of costs, including planning, program management and construction costs. The final cost of each Improvement will be determined as real property is purchased, plans are finalized, construction bids are awarded, or projects are completed. In addition, certain acquisition or improvement funds are expected from sources other than proceeds of the Bonds, including funds which have not yet been secured. Therefore, the City Council cannot guarantee that the Bonds will provide sufficient funds to allow completion of all needed Improvements.

For the Affordable Housing Improvements, proceeds of the Bonds shall be used to finance the acquisition or improvement of real property for affordable and social housing, including the application of bond proceeds by the City directly, or indirectly through third parties as loans, grants, or other disbursements to qualified individuals, not-for-profit entities acting alone or together with tax credit investors, not-for-profit corporations, partnerships, associations, and government agencies, to acquire real property for the purpose of constructing, rehabilitating or preserving affordable housing, or to construct, rehabilitate or preserve affordable housing; including but not limited to newly constructed non-profit rental and ownership housing, supportive housing, and limited-equity housing cooperatives affiliated with community land trusts.

Proceeds of the Bonds may be used to reimburse the City for expenditures on the Improvements that are paid before the date of execution, delivery or issuance of the Bonds.

Section 4. Estimated Cost of Improvements.

The estimated cost of the Affordable Housing Improvements to be funded by the Bonds is $200 million. The estimated cost for the Infrastructure Improvements is $450 million, of which $300 million may be allocated to Infrastructure Improvements related to street, sidewalk and traffic safety and $150 million may be allocated to other Infrastructure Improvements, including those related to public safety and climate resiliency. These dollar amounts are estimates and are not a commitment or guarantee that any specific amounts will be spent on particular projects or categories of projects.

The estimated cost includes legal and other fees and the cost of printing the Bonds and other costs and expenses incidental to or connected with the authorization, issuance or sale of the Bonds. The cost of the Improvements includes planning, programs management and construction costs.

Section 5. Principal Amount of Bonds.

The aggregate principal amount of Bonds to be issued shall not exceed $650 million.

Section 6. Maximum Interest Rate.

The maximum rate of interest to be paid on the Bonds shall not exceed the maximum interest rate permitted by law, in accordance with Government Code Section 53531.

Section 7. Accountability Requirements.

The following accountability measures apply to the issuance of Bonds pursuant to this Measure:

A. The specific purpose of the Bonds is to finance the acquisition or improvement of real property for the Improvements; and

B. The proceeds from the sale of the Bonds will be used only for the purposes specified in this Measure, and not for any other purpose; and

C. The proceeds of the Bonds will be deposited into an account to be created and held by the City; and

D. The proceeds from the sale of the Bonds may be used to reimburse the City for amounts advanced from the general fund or other funds or accounts to acquire real property for Improvements, when such purchases are made prior to the availability of Bond proceeds; and

E. All funds received from any Bonds authorized by this Measure are subject to review, allocation, and approval by the City Council. At least annually, as part of the process to adopt a budget and any budget updates, the City Manager shall provide to the City Council a comprehensive report of funds received from any Bonds authorized by this Measure, of previous appropriations and expenditures of such funds, the status of the Improvements, and a proposal for expenditure of funds expected to be received from Bonds, if any, for review and approval by the City Council.

F. The City Council shall appoint an Affordable Housing and Infrastructure Bond Oversight Committee which will provide oversight by reporting to the City Council on an annual basis regarding projects funded by the Bonds (as determined by the City Council) and whether those bond expenditures are consistent with the purposes of the Bonds set forth in this Measure.

G. The following commissions or their successors shall make recommendations to the City Council on projects proposed to be funded by the Bonds and proposed expenditures of the proceeds of the Bonds:

    1. The Housing Advisory Commission shall be advisory to the City Council and shall provide recommendations on projects and expenditures for the Affordable Housing Improvements.

    2. The Parks, Recreation, and Waterfront Commission shall be advisory to the City Council and shall provide recommendations on projects and expenditures for Infrastructure Improvements related to properties and facilities identified in Municipal Code Section 3.26.040.A, including all parks, recreation, and waterfront improvements.

    3. The Transportation and Infrastructure Commission shall be advisory to the City Council and shall provide recommendations on projects and expenditures for the Infrastructure Improvements related to transportation. traffic safety and other public infrastructure.

H. All expenditures will be subject to an annual independent financial audit to confirm that Bond expenditures are consistent with the intent of this Measure.

TAX RATE STATEMENT

An election will be held in the City of Berkeley (the "City") on November 8, 2022, to authorize the sale of up to $650 million in bonds of the City to finance the specific projects listed in the measure. If such bonds are authorized, the City expects to sell the bonds in one or more series. Principal and interest on the bonds will be payable solely from the proceeds of ad valorem tax levies made upon the taxable property in the City. The following information is provided in compliance with Sections 9400-9404 of the California Elections Code. Such information is based upon the best estimates and projections presently available from official sources, upon experience within the City, and other demonstrable factors.

Based upon the foregoing and projections of the City's assessed valuation:

1. The best estimate of the average annual tax rate that would be required to be levied to fund the bond issue over the entire duration of the bond debt service, based on a projection of assessed valuations available at the time of filing of this statement is 39 cents per $100 (or $39.00 per $100,000) of assessed valuation of all property to be taxed. The best estimate of the final fiscal year in which the tax is anticipated to be collected is 2070/71. For purposes of this paragraph, the term "average annual tax rate" refers to the mean annual tax rate.

2. The best estimate of the highest tax rate that would be required to be levied to fund the bond issue, based on a projection of assessed valuations available at the time of filing this statement is 71 cents per $100 (or $71.00 per $100,000) of assessed valuation of all property to be taxed. The best estimate of the first year in which the highest tax rate will apply is 2041/42.

3. The best estimate of the total debt service, including the principal and interest, that would be required to be repaid if all the bonds are issued and sold is $1,125,000,000.

Voters should note that such estimated tax rates are specific to the repayment of bonds issued under this authorization and will be in addition to tax rates levied in connection with other bond authorizations approved or to be approved by the City or any other overlapping public agency.

Voters should note that the estimated tax rate is based on the ASSESSED VALUE of taxable property on Alameda County's official tax rolls, not on the property's market value. In addition, taxpayers eligible for a property tax exemption, such as the homeowner's exemption, will be taxed at a lower effective tax rate than described above. Property owners should consult their own property tax bills to determine their property's assessed value and any applicable tax exemptions.

Attention of all voters is directed to the fact that the foregoing information is based upon projections and estimates only, which amounts are not maximum amounts or durations and are not binding upon the City. The actual debt service amounts, tax rates and the years in which they will apply may vary from those presently estimated, due to variations from these estimates in the timing of bond sales, the amount of bonds sold and market interest rates at the time of each sale, and actual assessed valuations over the term of repayment of the bonds. The dates of sale and the amount of bonds sold at any given time will be determined by the City based on need for funds and other factors. The actual interest rates at which the bonds will be sold will depend on the bond market at the time of each sale. Actual future assessed valuation will depend upon the amount and value of taxable property within the City as determined by the Alameda County assessor in the annual assessment and the equalization process.

Dated: August 4, 2022

/s/ DEE WILLIAMS-RIDLEY
City Manager, City of Berkeley

ARGUMENT IN FAVOR OF MEASURE L

Vote YES on Measure L! Join community leaders, neighbors, and a unanimous Mayor and City Council to invest in the safety, affordability, and wellbeing of our community.

Berkeley urgently needs to address housing affordability, the condition of our streets, and climate challenges impacting health, safety, and sustainability. To address these needs and support a vibrant and equitable future, Measure L provides funding to:

- Create over 1,500 affordable homes and continue rehousing the homeless
- Rehabilitate streets to good condition across every neighborhood
- Underground utility wires for safe evacuation from earthquakes and wildfires
- Reconstruct sidewalks, paths, the waterfront, and other public facilities
- Improve safety for pedestrians, bicyclists, seniors, and youth
- Revitalize our Civic Center buildings and Park
- Achieve a greener, more sustainable and resilient community.

Much of Berkeley's aging infrastructure is in disrepair. Recent bond measures have allowed us to start renewing parks, senior centers, and other facilities throughout Berkeley, and to help create and improve more than 750 affordable homes. But with close to $1 billion in remaining needs, a State mandate for thousands more affordable units, and existing funds already committed or spent, we need Measure L to continue revitalizing our community.

Berkeley leverages your tax dollars with significant County, State, and Federal resources that can't be accessed without a "local match," and may be allocated to other cities. Delay can mean missing out on available funds, and greater future expense.

Measure L establishes an oversight committee, reporting requirements, and independent audits to ensure transparency, accountability, and that funds are spent as approved by voters. The City Council has already committed to increased funding for maintenance, so streets paved now won't deteriorate.

Let's take care of our community and invest in a vibrant future that meets the needs of all generations.

Vote YES on Measure L for a safe, affordable, green, and equitable Berkeley.

www.renewberkeley.org

s/Nancy Skinner
State Senator

s/Jesse Arreguín
Berkeley Mayor

s/Loni Hancock
Former State Senator and Berkeley Mayor

s/Susan Wengraf
Berkeley City Councilmember

s/Gordon Wozniak
Chair: Parks, Recreation, and Waterfront Commission

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE L

Measure L proponents promise an eye-catching list of projects, but the reality is quite different.

There's no guarantee we'll get the touted results because this bond is not tied to any specific project list. Future Councils will have the freedom to spend much of this money however they want with limited guardrails, including on vanity projects like new Council chambers as has been proposed! Previous bonds we have supported had community consensus on projects and goals *before* being submitted to the voters. How can an oversight committee hold Council accountable when no specific plans or promises have been made?

Many of the important goals of Measure L are already being funded by recently approved measures (O, P, M, T1, FF) that have generated hundreds of millions of dollars and are still being paid off. We need a clear accounting of what these measures have accomplished and why another will succeed where they have not. No such transparency exists here.

Funding for street maintenance was only recently increased after years of spending less than ~1% on streets from our ~$550 million annual budget! After a decade of underfunding, this increase was cynically made to help sell this bond. A small parcel tax combined with a greater contribution from the annual general budget would fix our streets in only 10 years.

We are happy to pay for Berkeley's needed improvements. But we want planning, accountability, and good faith. We see none of these in Measure L.

Vote No on Measure L

BerkeleyansForBetterPlanning.org

s/Jim McGrath
Former Parks, Waterfront, Public Works and BCDC Commissioner

s/Nancy Rader
Disaster and Fire Safety Commissioner

s/Stephanie Allan
Career Technical Education Educator

s/Carla Woodworth
Former Berkeley City Councilmember

s/Margot W. Smith
Activist

ARGUMENT AGAINST MEASURE L

We strongly support funding for affordable housing, roads, and other infrastructure needs. But this vague measure is a blank check to City Hall, with little assurance that this massive bond would be spent effectively.

The measure's flaws:

- **Poor planning.** There are no plans or specific projects for many of the funds that the bond would generate. Careful planning is necessary to efficiently achieve the measure's stated goals and should be completed in advance of a bond request. The city's general fund has increased 60% since 2013 with little of that increase dedicated to infrastructure. Infrastructure should have significant budget contributions from the general fund, not be largely outsourced to our children as debt. Many of the bond's goals do not warrant a 45-year liability. Paying it off could strangle other future bond needs, such as for our schools.

- **Few priorities or commitments.** A laundry list of projects fails to prioritize our greatest needs. There is no clear priority for low-income affordable housing, for example. The electorate deserves separate, carefully considered measures to vote on. This hodge-podge cynically attempts to gain votes based on a favored element of the grab bag. It suggests more projects than can be funded and commits to few.

- **No accountability.** In hastily adopting this bond measure, the city bypassed its commissions and public input. Citizen oversight has been spotty in the past and is far from assured here. Future City Councils could use at least $150 million of this bond for almost anything.

Achieving vital goals requires more than money. It requires planning, prioritization, and accountability that has been lacking.

Limited opportunities to raise bond funds must not be squandered. Vote "No" on Measure L. Tell City Hall to come back in two years with careful planning, real commitments, and lower borrowing costs.

BerkeleyansForBetterPlanning.com

s/Ruth Ann "Kelly" Hammargren
Activist, Artist, Writer

s/Jack Kurzweil
Professor (Emeritus) of Electrical Engineering, San Jose State Univ.

s/James McGrath
Former Bay Conservation and Development, Public Works and Parks Commissioner

s/Laurie Capitelli
Former City Councilmember

s/Shirley Dean
Former Berkeley Mayor

REBUTTAL TO ARGUMENT AGAINST MEASURE L

Even Measure L's opponents agree: Berkeley needs affordable housing, streets in good condition, and upgrades to critical facilities and infrastructure.

It's time to take action and revitalize Berkeley for the 21st Century!

Measure L is the product of four years of planning and community input. It lists specific priorities and projects and requires the most robust accountability of any current City tax measure. Delay means more displacement, deterioration, and higher future costs.

- Berkeley's Housing Trust Fund provides the affordable housing framework Measure L will use to increase housing for low-income and homeless residents.

- In 2018, 84% of voters supported development of Vision 2050, a 30-year guide for climate-smart, technologically-advanced infrastructure. The Vision 2050 Program Plan will guide the improvements Measure L funds.

- Our pavement conditions were evaluated by independent consultants and the City Auditor. The City already has a Pedestrian Master Plan, Undergrounding Study, and Complete Streets Policy as well as numerous other plans, reports, and policies that inform Measure L.

Measure L creates accountability including a single-purpose Oversight Committee, requires independent audits and reporting, and citizen commissions to recommend and oversee projects. All funding decisions are made by the City Council in open session.

Bonds are a responsible and effective way to fund affordable housing and infrastructure. Projects can be done quickly with repayments spread over many years, reducing yearly costs to residents. While the Council is making significant contributions to infrastructure including funding streets, Measure L is needed to address roughly $1 Billion in unfunded infrastructure needs.

Join us in voting **YES on Measure L** for a safe, vibrant, diverse, and resilient future.

For more information: www.renewberkeley.org.

s/Igor A. Tregub
Chair, Sierra Club Northern Alameda County Group

s/Ann-Marie Hogan
Retired Berkeley City Auditor

s/Shashi Jivan
Board Member, East Bay Housing Organizations (EBHO)

s/Terry Taplin
Berkeley City Councilmember, District 2

s/Sophie Hahn
City Councilmember, District 5

Measure M
Vacancy Tax

Shall the measure to tax property owners who keep residential units vacant more than 182 days per year, $3,000 for each nonexempt condominium, duplex, single family dwelling, or townhouse vacant unit in the first year, increasing to $6,000 for each subsequent year, and $6,000 for all other residential units vacant in the first year, increasing to $12,000 for each subsequent year, with exceptions, from January 1, 2024 to December 31, 2034, generating between $3,900,000 and $5,900,000 annually, be adopted?

City Attorney's Impartial Analysis of Measure M

This measure was placed on the ballot by the City Council.

This measure would create a tax on property owners who keep a residential unit vacant for more than a total of 182 days in a calendar year. The tax would be imposed on owners at the following rates:

- For residential units in duplexes, condominiums, single-family homes and townhouses, the tax would be $3,000 for the first year a unit is vacant, and increase to $6,000 for any subsequent year a unit remains vacant.

- For all other residential units, the tax would be $6,000 for the first year the unit is vacant, and increase to $12,000 for any subsequent year the unit remains vacant.

These rates would be adjusted annually by the increase in the Consumer Price Index for the San Francisco/Oakland/San Jose area.

A residential unit would not be counted as vacant during any of the following periods that it is unoccupied, uninhabited or unused:

- The period during which a building permit application is pending with the City, for up to one year

- The two-year period after a building permit is issued for repair or rehabilitation of the unit

- The two-year period after a unit is made uninhabitable or unusable due to fire, natural disaster or other catastrophic event

- The period that the unit is the owner's principal residence

- The period that the unit is leased for occupancy

- The period that a unit is vacant following the death of the owner who occupied the unit, for up to two years or until the end of probate, whichever is longer

- The period that a unit is vacant because the occupant is in a hospital or care facility

The following property owners would be exempt from this tax:

- 501(c)(3) organizations

- State or local governmental entities

- An individual or trust who owns a single property that has four or fewer residential units, who uses the property as their primary residence, and who owns no other residential units in the City. This exemption would not apply to real estate investment trusts, corporations, or limited liability companies.

The measure would allow the City Council to suspend the tax by a two-thirds vote in the event of a declared emergency. The measure would allow the City Council to amend the tax by a simple majority vote, provided the Council does not change the amount of the tax or expand any exemptions. State law also prevents City Council from narrowing any exemptions.

Property owners would be subject to this tax beginning January 1, 2024 until December 31, 2034.

The tax is estimated to generate $3,900,000 to $5,900,000 annually. The City Manager would provide City Council an annual report of revenues collected during the prior fiscal year.

This is a general tax. The revenue from this tax would be deposited into the general fund and could be used for any municipal purpose.

This measure requires a simple majority vote for passage.

The above statement is an impartial analysis of Measure M.

s/FARIMAH FAIZ BROWN
Berkeley City Attorney

ORDINANCE NO. #,###-N.S.

ADDING CHAPTER 7.54 TO THE BERKELEY MUNICIPAL CODE TO IMPOSE AN EXCISE TAX ON KEEPING RESIDENTIAL PROPERTY VACANT TO FUND GENERAL MUNICIPAL SERVICES

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

Section 1. That Chapter 7.54 of the Berkeley Municipal Code is added to read as follows:

Chapter 7.54

Empty Homes Tax

Sections:

7.54.010 Short Title.
7.54.020 Findings and Purpose.
7.54.030 Definitions.
7.54.040 Imposition of Tax.
7.54.050 Returns; Presumption of Vacancy.
7.54.060 Exemptions.
7.54.070 Administration; Penalties.
7.54.080 Use of Funds for General Municipal Purposes.
7.54.090 Technical Assistance to the City Manager; Annual Reports.
7.54.100 Authorization and Limitation on Issuance of Bonds.
7.54.110 Severability.
7.54.120 Savings Clause.
7.54.130 Liberal Construction.

7.54.010 Short Title.

This Chapter shall be known as the “Empty Homes Tax Ordinance,” and the tax it imposes shall be known as the “Empty Homes Tax.”

7.54.020 Findings and purpose.

The People of the City of Berkeley find and declare as follows:

A. Residential vacancies are an ongoing concern in Berkeley.

B. Of total vacancies, the Berkeley Rent Stabilization Board data from 2022 indicates that 1,128 fully or partially regulated units in buildings with more than two units have been classified by their owners as not available to rent. Returning these and other vacant units to the housing market is a key strategy for ensuring long-term affordability.

C. Prolonged vacancy restricts the supply of available housing units, is often the result of housing speculation and runs counter to the City’s housing objectives. Prolonged vacancies can also decrease economic activity in neighborhoods and lead to blight.

D. The housing affordability crisis has created an urgent need to pay for additional services and programs including, but not limited to, construction of new affordable housing for households with a household income of 80% or less of Area Median Income,

including by providing pre-development funding to non-profit affordable housing developers, and the acquisition and rehabilitation of multi-unit buildings for affordable housing, and the operation of such buildings acquired and/or rehabilitated.

E. The City is also working to ensure all public funds available to build affordable housing are being maximized, from the City, Alameda County, State and Federal governments.

F. Even with the addition of City, County, State, and Federal resources, the City is unable to house all of its residents.

G. The increased costs of meeting the challenges of the housing crisis have impacted the City's General Fund.

H. The City needs new funds to pay for municipal services. The Empty Homes Tax is intended to disincentivize prolonged vacancies and housing speculation, thereby increasing the number of housing units available for occupancy, while also raising funds for municipal services, including but not limited to constructing, acquiring, and rehabilitating affordable housing.

7.54.030 Definitions.

Unless otherwise defined in this Chapter, the terms used in this Chapter shall have the meanings given to them in Chapters 2.44 and 9.04 of the Municipal Code, as amended from time to time. For purposes of this Chapter, the following definitions shall apply:

A. "Affiliate" means an entity under common majority ownership or common control, whether that ownership or control is direct or indirect, with any other person or entity, including but not limited to a person or entity that majority owns or controls, or is majority owned or controlled by, any other person or entity.

B. "Building Permit Application Period" means the period following the date that an application for a building permit for repair, rehabilitation, or construction with respect to a Residential Unit is filed with the City through the date the Planning Department or its successor agency grants or denies that application, not to exceed one year. Notwithstanding the preceding sentence, if more than one building permit application is filed by or on behalf of one or more persons in the Owner's Group for the same Residential Unit, the Building Permit Application Period shall mean only the applicable period following the date the first application is filed with the City by or on behalf of anyone in the Owner's Group. In the case of an owner qualifying for the Disaster Period in subsection D, the Building Permit Application Period may be extended beyond one year if the owner makes a good faith effort, as determined by the building official, to obtain a building permit.

C. "Disaster Period" means the two-year period following the date that a Residential Unit was made uninhabitable or unusable due to fire, natural disaster, or other catastrophic event, except where a negligent, reckless or willful act or omission by the owner or agent of the owner contributed to or caused the Residential Unit to become uninhabitable or unusable due to fire, natural disaster or other catastrophic event.

D. "Homeowners' Exemption Period" means the period during which a Residential Unit is the principal place of residence of any owner of that Residential Unit and for which

such owner validly has claimed either the homeowners' property tax exemption under Section 218 of the California Revenue and Taxation Code or the disabled veterans' exemption under Section 205.5 of that Code, as those sections may be amended from time to time.

E. "Hotel" means any property registered under Section 7.36.060 of the Municipal Code and excludes any properties regulated under Chapter 23.314 of the Municipal Code.

F. "Lease Period" means the period during which any owner of a Residential Unit or any person in the Owner's Group of that owner leases that Residential Unit to one or more tenants under a bona fide lease intended for occupancy, but not including any lease or rental of that Residential Unit to anyone in the Owner's Group or to travelers, vacationers, or other transient occupants.

G. "Owner Death Period" means, with respect to a co-owner or decedent's estate, heirs, or beneficiaries, the period during which a Residential Unit is unoccupied, uninhabited, or unused because of the death of any owner of a Residential Unit who was the sole occupant of that Residential Unit immediately prior to such owner's death, provided that such period shall not exceed the longer of two years or the period during which the Residential Unit is subject to the authority of a probate court.

H. "Owner In Care Period" means the period during which a Residential Unit is unoccupied, uninhabited, or unused because the occupant of the Residential Unit who used that Residential Unit as their principal residence is residing in a hospital, long term or supportive care facility, medical care or treatment facility, or other similar facility.

I. "Owner's Group" means for each owner of a Residential Unit, with respect to each Residential Unit, the owner, any current or former co-owner, and any Related Person or Affiliate of the owner or any current or former co-owner.

J. "Rehabilitation Period" means the two-year period following the date that the City issues a building permit for repair, or rehabilitation, with respect to a Residential Unit, provided that if the City issues multiple building permits to or for the benefit of one or more persons in the Owner's Group for the same Residential Unit, the Rehabilitation Period shall mean only the two-year period following the issuance of the first building permit to or for the benefit of anyone in the Owner's Group.

K. "Related Person" means a spouse, domestic partner, child, parent, or sibling.

L. "Residential Unit" means a house, an apartment, a group of rooms, or a single room that is designed as separate living quarters Separate living quarters are those in which the occupants live and eat separately from any other persons in the building and which have a kitchen and direct access from the outside of the building or through a common hall. For purposes of this Chapter, a Residential Unit shall not include a unit in a Hotel, a currently operational nursing home, residential care facility, or other similar facility, or any unit that is fully exempt from property tax under the welfare exemption under Section 214(g) of the California Revenue and Taxation Code, as may be amended from time to time.

M. "Vacancy Exclusion Period" means the Building Permit Application Period, Rehabilitation Period, Disaster Period, Homeowners' Exemption Period, Lease Period, Owner Death Period, or Owner In Care Period.

N. “Vacant” means unoccupied, uninhabited, or unused, for more than 182 days, whether consecutive or nonconsecutive, in a calendar year.

7.54.040 Imposition of Tax.

A. Except as otherwise provided in this Chapter, the City imposes an annual Empty Homes Tax on each person that owns a Residential Unit for keeping that Residential Unit Vacant for more than 182 days, whether consecutive or nonconsecutive, in a calendar year except for those periods defined as a Vacancy Exclusion Period.

B. The Empty Homes Tax on an owner keeping a Residential Unit Vacant shall be as follows:

1. For the first calendar year that the Residential Unit is Vacant, the tax shall be $3,000 per Residential Unit in a vacant condominium, duplex, single family dwelling, or townhouse unit under separate residential unit ownership and $6,000 per any other vacant Residential Unit.

2. For the second consecutive calendar year and each subsequent calendar year thereafter that the Residential Unit is Vacant, the tax shall be $6,000 per Residential Unit in a vacant condominium, duplex, single family dwelling, or townhouse unit under separate residential unit ownership and $12,000 per any other vacant Residential Unit.

C. The rates set forth in subsection B. of this Section shall be adjusted annually in accordance with the increase in the Consumer Price Index: All Urban Consumers for the San Francisco/Oakland/San Jose Area for All Items as reported by the United States Bureau of Labor Statistics, or any successor to that index, as of December 31st of the preceding year, beginning with the 2025 calendar year.

D. The Empty Homes Tax shall be payable by the owner or owners of the Residential Unit kept Vacant. Not more than one tax per Residential Unit shall be imposed under this Section for a calendar year by reason of multiple liable owners. If there are multiple liable owners, each owner shall be jointly and severally liable for the tax, which shall be the highest amount of tax payable by any owner for that Residential Unit for that calendar year.

E. In determining whether an owner has kept a Residential Unit Vacant during a calendar year, days within any Vacancy Exclusion Period shall be disregarded if that Vacancy Exclusion Period applies to that owner for that Residential Unit, as shall days in which the Residential Unit was not owned by the owner, but the owner shall be deemed to have kept the Residential Unit unoccupied, uninhabited, or unused on all other days that such Residential Unit is unoccupied, uninhabited, or unused during the calendar year.

F. The Empty Homes Tax shall take effect on January 1, 2024. The Empty Homes Tax shall expire on December 31, 2034, unless reauthorized by the voters prior to such date.

G. The Empty Homes Tax shall be suspended for as long as the Berkeley COVID-19 Residential Eviction Moratorium is in effect pursuant to BMC 13.110 and the tax shall resume upon expiration.

H. Upon declaring a citywide emergency, the Council may suspend the tax in whole or part by a supermajority vote of two-thirds of the entire City Council upon a finding that a declared emergency has undermined the ability of owners to fill vacancies in their Residential Units. Such a suspension shall last for no more than 60 days from its enactment by the Council, but may be extended on or before its expiration by a two-thirds supermajority vote of the Council so long as the emergency continues and the required findings can be made. The Empty Homes Tax shall resume upon the expiration of the emergency.

I. The Council may, by majority vote of the entire City Council, amend this Chapter in furtherance of its purposes or to correct ambiguities or errors in language, provided that such amendments do not alter the dollar amounts of the tax as provided in Section 7.54.040 B, or expand the applicability of the exemptions in Section 7.54.060, or amend subsection H. or this subsection I. of Section 7.54.040.

7.54.050 Returns; Presumption of Vacancy.

A. Each person that is required to pay the Empty Homes Tax shall file a return in the form and manner prescribed by the City Manager or their designee.

B. Each person that owns a Residential Unit at any time during a calendar year and that is not exempt from the Empty Homes Tax with respect to that Residential Unit under any one of subsections A. through D. of Section 7.54.060 shall file a return for that calendar year in the form and manner prescribed by the City Manager or their designee. A person that fails to file the return required by this subsection B. for a Residential Unit shall be presumed to have kept that Residential Unit Vacant for the calendar year for which such return is required. The person who fails to file the required return may rebut the presumption by producing satisfactory evidence that such person did not keep the Residential Unit Vacant during the calendar year for which the return is required.

7.54.060 Exemptions.

A. For only so long as and to the extent that the City is prohibited by the Constitution or laws of the State of California or the Constitution or laws of the United States from imposing the Empty Homes Tax on any person that person shall be exempt from the Empty Homes Tax.

B. Any organization that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, shall be exempt from the Empty Homes Tax.

C. The City, the State of California, and any county, municipal corporation, district, or other political subdivision of the State shall be exempt from the Empty Homes Tax, except where any constitutional or statutory immunity from taxation is waived or is not applicable.

D. A natural person or trust who is the owner of a single property of four or fewer Residential Units, inclusive of accessory dwelling units and junior accessory dwelling units, that is their principal residence shall be exempt provided that they own no other Residential Units in the City. Additionally, for the purposes of this subsection D. only, the

"owner" of such Rental Property shall not be any of the following set forth under California Civil Code Section 1947.12(d)(5)(A)(i)-(iii) ("AB 1482"): a real estate investment trust, as defined in Section 856 of the Internal Revenue Code; a corporation; or a limited liability company.

E. Any taxpayer seeking an exemption under this Section shall be required to demonstrate their entitlement thereto annually by submitting an application and supporting documentation to the City Manager or their designee in the manner and at the time established in regulations and/or guidelines hereafter promulgated by the City Manager subject to review by the City Council in its discretion. Such applications shall be on forms provided by the City Manager, or their designee.

7.54.070 Administration; Penalties

A. The City Manager or their designee shall enforce the provisions of this Chapter and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this chapter.

B. The tax required by this Chapter is delinquent if not received by the tax administrator on or before February 28 of each year.

C. Any person who fails to pay the tax required by this Chapter to the City or any amount of tax required to be collected and paid to the City within the time required shall pay a penalty of ten percent of the tax or amount of the tax, in addition to the tax or amount of tax, plus interest at the rate of one percent per month from the date on which the tax or the amount of tax required to be collected became due and payable to the City until the date of payment.

D. Transactions with the principal purpose of avoiding or evading all or a portion of the Empty Homes Tax shall be disregarded for purposes of determining the amount of the Empty Homes Tax and whether the Empty Homes Tax is due. Any owner determined to have engaged in one or more transactions with the principal purpose of avoiding or evading all or a portion of the Empty Homes Tax shall be liable for the Empty Homes Tax and also liable for a penalty in an amount equal to the Empty Homes Tax.

E. Any tax required to be paid by an owner under the provisions of this chapter shall be deemed a debt owed by the owner to the City. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City for the recovery of such amount, along with any collection costs incurred by the City as a result of the person's noncompliance with this chapter, including, but not limited to, reasonable attorneys' fees, plus interest and penalties as herein provided.

7.54.080 Use of Funds for General Municipal Purposes.

A. The Council may deposit any portion of the proceeds generated by the Empty Homes Tax into the Housing Trust Fund, subject to its operating rules, or it may use any of the proceeds to fund any general municipal services designated by the Council.

7.54.090 Annual Reports.

Commencing with a report filed no later than February 15, 2026, covering the fiscal year ending June 30, 2025, the City Manager shall file annually with the Council, by February 15 of each year, a report containing the amount of monies collected from the tax during the prior fiscal year.

7.54.100 Authorization and Limitation on Issuance of Bonds.

The City shall be authorized to pledge revenues generated by the Empty Homes Tax to the repayment of limited tax bonds or other forms of indebtedness authorized under this Section. The Council shall by ordinance or resolution, as applicable, establish the terms of any limited tax bonds or other forms of indebtedness authorized hereby, including but not limited to, the amount of the issue, date, covenants, denominations, interest rate or rates, maturity or maturities, redemption rights, tax status, manner of sale, and such other particulars as are necessary or desirable.

7.54.110 Severability.

If any word, phrase, sentence, part, section, subsection, or other portion of this ordinance, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The People of the City of Berkeley hereby declare that they would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

7.54.120 Savings Clause.

No section, clause, part, or provision of this Chapter shall be construed as requiring the payment of any tax that would be in violation of the Constitution or laws of the United States or of the Constitution or laws of the State of California.

7.54.130 Liberal Construction.

This Chapter shall be liberally construed to effectuate its purpose.

Section 2. Increase Appropriations Limit. Pursuant to California Constitution Article XIII B and applicable laws, for four years from November 8, 2022, the appropriations limit for the City shall be increased by the aggregate sum collected by the levy of the general tax imposed under this ordinance.

Section 3. California Environmental Quality Act Requirements. This Ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq., under, including without limitation, Public Resources Code section 21065

and CEQA Guidelines sections 15378(b)(4) and 15061(b)(3), as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment and pursuant to Public Resources Code section 21080, subdivision (b)(8), and CEQA Guidelines section 15273 as the approval of government revenues to fund existing services.

Section 4. General Tax; Majority Vote Requirement. This Ordinance imposes a general tax for general revenue purposes and shall be effective only if approved by a majority of the voters voting thereon.

ARGUMENT IN FAVOR OF MEASURE M

Vote YES on Measure M to bring needed housing back online and ensure speculators pay for the impacts of long-term vacancies.

The lack of available and affordable housing impacts the safety, diversity, and quality of life in our city. Rising rents fuel displacement of long-term residents, push people into overcrowded living conditions, and increase homelessness, impacting our streets, parks, and public spaces.

While the City is building new housing, some corporate speculators and scofflaws keep units and even entire apartment buildings empty during an extreme housing shortage. Long-term vacancies artificially restrict the supply and create blight in neighborhoods.

An important strategy to increase our housing supply now is unlocking the over 1,000 empty homes currently vacant. Measure M, the Empty Homes Tax, discourages property owners from keeping units vacant with an annual tax of $3,000 on empty condos, duplexes, and single-family homes not used as someone's primary residence and $6,000 for all other empty units. The tax increases progressively based on the length of vacancy. Estimated to generate up to $5.9 million annually, Measure M can provide general funds for building and preserving affordable housing.

Measure M targets corporate landlords and owners of large or multiple properties, and includes exemptions to avoid burdening small property owners. Homeowners can hold a unit open for a child returning from college and or a caregiver as they grow older, and vacant units on small properties can be used by the owner. This is in addition to probate, construction, and disaster recovery exemptions. The tax doesn't go into effect until January 1, 2024, giving property owners significant time to comply.

Endorsers include the Alameda County Democratic Party, Wellstone Democratic Renewal Club, the Bay Area Community Land Trust, Cal Berkeley Democrats, SEIU 1021, Berkeley Citizens Action, the Berkeley Progressive Alliance, and Telegraph for People.

We can make housing available now and improve quality of life by encouraging housing to be rented. Vote YES on the Empty Homes Tax.

s/Jesse Arreguin
Mayor of Berkeley

s/Kate Harrison
Berkeley Vice Mayor and Councilmember

s/Rigel Robinson
Berkeley City Councilmember

s/Ben Bartlett
Berkeley City Councilmember

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE M

There must be a reason why nearly half of City Council did not vote to put this measure on the ballot.

- Perhaps it's because they knew that Measure M would create a tremendous burden on City Staff at a time when their focus should be on providing essential city services.

- Perhaps it's because they knew that revenue projections for this tax were grossly overestimated and that any money which MIGHT be generated is not earmarked for affordable housing.

- Perhaps it's because they knew that some of Measure M's endorsers would soon be calling for the repeal of exemptions for single-family homeowners and small property owners.

- Perhaps it's because they knew that in the rare instance the tax was paid by a corporate owner it would simply be tacked on to the sale price of the property, making housing even more unaffordable in Berkeley.

- Perhaps it's because they know that the U.S. Department of Housing and Urban Development has estimated the vacancy rate in our area to be an already low 3.4%, and even a quick internet search will show that driving the rate down further will result in drastically higher rents for tenants.

Berkeleyans must ask more from their elected officials. Rather than pay lip service to the affordable housing crisis, supporters should take the time to analyze whether a vacancy tax will do more harm than good. The rushed manner in which this was placed on the ballot is evidence that they have not.

Please Vote NO on Measure M.

s/Marcus Crawley
President, Alameda County Taxpayers' Association

ARGUMENT AGAINST MEASURE M

There is no doubt that we are in a housing crisis, but Measure M is a classic example of a solution looking for a problem. **That's because there is no solid data showing an actual vacancy problem in the City of Berkeley.**

Proponents used 2020 Census data to support this measure, but vacancies that year were inflated as thousands of students abandoned their apartments when the University closed its campus due to the pandemic. **Using 2020 Census data to make a case for this tax wasn't just negligent, it was downright wrong.**

In addition to lacking data, the measure was rushed to the ballot without moving through the City Council committee process. As such, City Council was forced making last minute decisions without thoroughly vetting revenue projections or unintended consequences. There is a very real possibility that this tax will cost more money to administer than it makes. **That could ultimately mean less money for essential city services and affordable housing in Berkeley.**

The measure also doesn't include an appeal process for homeowners that are taxed incorrectly. Instead, supporters say that City Staff is responsible for creating this process along with a complicated set of regulations to administer and levy the tax. **Not only does this deprive Berkeley Voters of a say in how the tax is administered, it creates a huge burden on City Staff who are already stretched thin.** City Staff should be focusing on providing essential city services and creating real affordable housing solutions rather than wasting tax dollars on bringing a handful of expensive apartments to market.

Lastly, there is already talk of **repealing exemptions for single-family homeowners** and small property owners. **Even if you're safe now, you won't be very soon.**

Vote NO on Measure M.

s/Marcus Crawley
President, Alameda County Taxpayers' Association

REBUTTAL TO ARGUMENT AGAINST MEASURE M

While it may be profitable for property owners to leave units empty, it is very expensive for the community and for those unable to find housing.

Unlike the Census' 4,725 vacant units cited by those opposing the tax, the City's robust database of 1,128 units classified as 'not available to rent" is not a snapshot in time. It is a definitive record of landlords **permanently removing their units from the market**, artificially reducing the supply of housing and exacerbating already high rents and displacement. It is this figure that the City used to estimate the number of units that could be once again available as housing and the revenues to be realized from the tax.

Measure M was carefully drafted for more than half a year and was informed by extensive data analysis, consultation with other jurisdictions, City Finance and the City Attorney and months of public input and debate. The authors listened diligently to the public, crafting thoughtful exemptions, and empowering the Council to make minor amendments that don't increase the tax or the types of units to which the tax applies.

Tax administration will be smooth and cost-effective due to the City's existing dataset and rental regulations, leaving millions of additional dollars to provide essential city services or build affordable housing. The Measure also empowers the City to create an appeals process through regulations – a routine process.

Let's restore missing housing units and reduce blight. **Join us in voting YES on the Empty Homes Tax.**

s/Igor A. Tregub
Chair, Sierra Club Northern Alameda County Group

s/Andy Kelley
Corresponding Secretary, Alameda County Democratic Party

s/Leah Simon-Weisberg
Chair of the Berkeley Rent Board

s/Chris Schildt
Chair, Berkeley Housing Authority Board

s/Cecilia Lunaparra
President, Cal Berkeley Democrats

Measure N Article 34 Low-Income Housing

Shall any federal, state or local public entity be empowered to develop, construct or acquire an additional 3,000 units of low-rent housing in the City of Berkeley for persons of low income?

Financial Implications:
Uncertain, dependent on means of financing used.

CITY ATTORNEY ANALYSIS
MEASURE FOR AUTHORIZATION OF LOW RENT HOUSING

This measure was placed on the ballot by the City Council.

Article XXXIV of the California Constitution requires that a City's voters grant prior approval before any federal, state or local public entity can develop, construct or acquire certain types of low rent (below market rate) housing projects in that City. Berkeley citizens have voted to approve the development of 200 units of housing for low income persons in 1977, 300 units in 1981, 500 units in 2000, and 500 units in 2016.

Since 2016, 242 units of housing subject to Article XXXIV has been developed in the City, and the City is anticipating the construction of a significant number of additional units in the next few years. Thus, additional voter authorization is required in order to develop additional units which are subject to Article XXXIV referendum requirements.

The proposed measure would authorize any public entity to develop, construct or acquire an additional 3,000 units of low income housing in the City of Berkeley for low income persons.

This measure grants only general authority for units to be developed, constructed or acquired and does not approve any individual project. All projects subject to this grant of authority would be required to comply with all applicable federal, state and local laws including land use, housing and building requirements.

Financial Implications
The financial implications of any specific housing project depends on the particular method of financing of that project. The financial implications are unknown at this time.

s/FARIMAH FAIZ BROWN
Berkeley City Attorney

RESOLUTION NO. ##,###-N.S.

AUTHORIZING PUBLIC ENTITIES TO DEVELOP, CONSTRUCT, OR ACQUIRE NO MORE THAN 3,000 UNITS OF LOW RENT HOUSING IN THE CITY OF BERKELEY

WHEREAS, Article XXXIV of the Constitution of California requires that a majority of qualified voters of the City of Berkeley determine whether or not any public entity should be empowered to develop, construct, or acquire low rent housing projects in the City of Berkeley.

NOW THEREFORE, BE IT RESOLVED by the People of the City of Berkeley that any public entity shall be empowered to develop, construct or acquire up to 3,000 additional units of low-rent housing for persons of low income in the City of Berkeley.

BE IT FURTHER RESOLVED that the terms of the authorization contained in this measure shall be construed in the same manner as Article XXXIV of the Constitution of California and any laws or cases interpreting that section.

ARGUMENT IN FAVOR OF MEASURE N

Vote YES on Measure N. Placed on the ballot by a unanimous City Council and Mayor, Measure N enables the City of Berkeley to develop, construct or acquire up to 3,000 units of low-income housing.

Housing is a human right. Yet, our community faces a critical shortage of homes affordable to seniors, persons with disabilities, veterans, students, and working families. Rising rents and home prices continue to lock people out of the housing market and fuel displacement, and while recent efforts have decreased homelessness, more affordable homes are needed to meet the demand for affordable and supportive housing.

Article XXXIV of the California Constitution requires that voters grant prior approval before any federal, state, or local public entity develops or acquires below-market-rate housing. While the City does not build affordable units directly, we provide funding to non-profit developers who build, purchase, and preserve affordable homes.

Berkeley voters last authorized the City to develop 500 units of low-income housing in 2016. Since that time, thanks to voters' enthusiastic support for Measures U1 and O, the City has fulfilled our Article 34 authorization and must again obtain voter approval to develop the affordable and supportive housing we need.

Recent State mandates require Berkeley to plan for the addition of several thousand affordable units over the next eight years. Measure N authorizes Berkeley to support the development or acquisition of an additional 3,000 units of low-income housing, enabling the City to meet State housing requirements and continue our successful efforts to address Berkeley's critical shortage of affordable homes.

Vote YES on Measure N to authorize up to 3,000 much-needed units of affordable and supportive housing and reaffirm Berkeley's commitment to equity and diversity.

s/Jesse Arreguín
Berkeley Mayor; President, Association of Bay Area Governments

s/Sophie Hahn
Berkeley City Council District 5

s/Brad Wiblin
Executive Vice President (EVP) BRIDGE Housing

s/Libby Lee-Egan
Chair, Housing Advisory Commission

REBUTTAL TO THE ARGUMENT IN FAVOR OF MEASURE N

No on N!

Measure N's marketing boasts to relieve the critical affordable housing shortage for everybody, but it offers no real solutions except the enrichment of corporations and their lavishly compensated managers.

The proponents make a specious claim to provide affordable apartments to students. Students won't qualify for this housing! So, without any assurances, UC students should be wary of these promises.

The proponents also claim that this measure is required because high home prices lock people out of the housing market, but this measure does nothing to help would-be homeowners.

No affordable homes for students, no affordable homes to purchase.

This measure will only create dedicated low-income buildings, like Berkeley's Hope Center project, adding to Berkeley's already substantial inventory of low-income projects. This Bridge Housing building has 89 units and cost $745,000 per unit of housing. At that price, this measure's 3,000 units will cost $2,235,000,000 to build. The $97,000,000 left from Measure O is woefully insufficient. Similarly, the $200,000,000 affordable housing portion of proposed Measure L will be a funding failure.

Berkeley will be short $1,938,000,000 in funds needed to build! Almost 2 billion dollars!

A better plan to create affordable housing is with Berkeley's inclusionary affordable housing ordinance. This has successfully provided hundreds of affordable units through the years at no cost to residents.

We, the undersigned opponents of Measure N disagree with the City Council's intention to prioritize housing subsidized by homeowners over housing subsidized by market rate landlords.

Vote No on N!

s/James M Tharp
District 3 Voter

s/Justin Lee
Resident, District 2

s/Dan McDunn
Dissident

s/David K. Denton
Berkeley Homeowner

s/Lilana Spindler
Founder – Berkeley for Assessment Tax Equity

ARGUMENT AGAINST MEASURE N

Measure N is the **wrong way to create much needed affordable housing** in Berkeley because it involves long-term indebtedness and higher costs for civic services.

In the past, Berkeley successfully sued U.C.'s student expansion efforts to the tune of $500 per new student. This was to account for the fiscal impact on services. Why isn't the City considering the impact on city services of 3,000 new low-income units in this measure?

Similar to UC's status, low-income landlords are exempt from the property and parcel taxes for the civic services of their tenants. Corporate landlords with 3,000 low-income units will create more cost burdens to schools, parks, libraries, Fire Dept and EMT. In so many units, 5,000 new residents means $2,500,000 extra costs per year. This fiscal impact is on current residents, especially those paying the notorious parcel tax overages.

There is a better way to create more low-income units - through the 20% inclusionary ordinance which applies to every market rate development. Who pays for those tenants' services? The landlord does. You are not asked to subsidize wealthy developers. With 1800 total units entitled this year, and permitting on the upswing, we will have 3600 new affordable units in 10 years paid for entirely by landlords.

No Measure N needed!

Indeed, 2018's $135,000,000 Measure O is being spent now to create hundreds of low-income units already. This vast wealth is being directed to local corporate landlords. Meanwhile, Berkeley struggles to provide basic services to residents and accuses you of underfunding affordable housing. On the contrary, you are supporting it every time you pay rent or your property tax bill.

Don't let this measure mislead you. It is unnecessary and makes you poorer and a few lucky corporate landlords wealthier. **Vote NO on Measure N!**

s/Chris Catlett
retiree

s/Laura Menard
Former BUSD Parent Advocate

s/Justin Lee
Voter District 2

s/Lilana Spindler
Founder, BATE, Berkeley for Assessment Tax Equity

REBUTTAL TO ARGUMENT AGAINST MEASURE N

Let's be clear: If Measure N doesn't pass, Berkeley won't be able to create affordable housing in the coming years.

In the 1950s, a State constitutional amendment passed allowing communities to veto affordable housing, and for decades has contributed to the shortage of affordable units Statewide – fueling an epidemic of homelessness and housing insecurity. The law still stands – a shameful vestige of a racist past.

Measure N gives Berkeley the authorization to go ahead with our ambitious affordable housing program; without your YES votes, affordable housing will come to a halt.

We're shocked anyone would oppose Measure N and trust the voters of Berkeley to Vote YES. Despite an unprecedented housing crisis, opponents argue against low-income housing because they imagine it will increase burdens for other residents.

Due to rising housing costs, teachers, artists, retail and restaurant staff, and other essential workers are being priced out. They're key to keeping Berkeley a creative, diverse, safe, and vibrant community. Opponents of Measure N view these community members as a price tag rather than key contributors to our City's success.

Opponents argue that private developments can meet affordability needs, but market rate projects aren't yielding significant numbers of affordable units. Instead, the City is successfully leveraging County, State, Federal and private funds to create thousands of affordable units.

Vote Yes on Measure N to allow up to 3,000 more units of low-income housing in Berkeley and help our City address the dual crises of housing affordability and homelessness.

s/Igor A. Tregub
Chair, Sierra Club Northern Alameda County Group

s/Daniel Sawislak
Executive Director, Resources for Community Development

s/Chris Schildt
Chair, Berkeley Housing Authority Board

s/Leah Simon-Weisberg
Chair of the Berkeley Rent Board

s/Jesse Arreguín
Berkeley Mayor