



Housing Advisory Commission

# HOUSING ADVISORY COMMISSION

## AGENDA

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**Special Meeting**  
**Wednesday, February 10, 2021**  
**7:00 pm**

Mike Uberti, Secretary  
HAC@cityofberkeley.info

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**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the Housing Advisory Commission will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

**To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL - <https://zoom.us/j/95678461912>.** If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen.

**To join by phone: Dial +1 669-900-6833 and Enter Meeting ID: 956 7846 1912.** If you wish to comment during the public comment portion of the agenda, press \*9 and wait to be recognized by the Chair.

**Written communications submitted by mail or e-mail to the Housing Advisory Commission by 5:00 p.m. the day 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. City offices are currently closed and cannot accept written communications in person.

**All agenda items are for discussion and possible action.**

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**Public comment policy:** Members of the public may speak on any items on the Agenda and items not on the Agenda during the initial Public Comment period. Members of the public may also comment on any item listed on the agenda as the item is taken up. Members of the public may not speak more than once on any given item. The Chair may limit public comments to 3 minutes or less.

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1. **Roll Call**
2. **Agenda Approval**
3. **Public Comment**
4. **Approval of the January 20, 2021 Special Meeting Minutes** (Attachment 1)
5. **Officer Elections – All/Staff** (Attachment 2)

6. **Discussion and Possible Action on Housing Trust Fund Subcommittee Predevelopment Loan Application Recommendations** – Housing Trust Fund Subcommittee (Attachment 3)
  - a. Community Housing Development Corporation/St. Paul AME's Application for 2024 Ashby Avenue
  - b. Community Housing Development Corporation/Ephesians Church of God In Christ (ECOGIC)'s Application for 1708 Harmon Street
7. **Discussion on Affordable Housing Development Funds: Ashby and North Berkeley BART Station Areas and Future Housing Funding NOFAs** – All/Staff (Attachment 4)
8. **Update on Council Items (Future Dates Subject to Change)** – All/Staff
9. **Announcements/Information Items**
  - a. Temporary Suspension of Certain Provisions of the Commissioners' Manual for Subcommittees (Attachment 5)
10. **Future Items**

## 11. **Adjourn**

### Attachments

1. Draft January 20, 2021 Special Meeting Minutes
2. Amanda Montez & Mike Uberti, HHCS, Predevelopment Loan Applications - CHDC/St. Paul AME: 2024 Ashby Avenue & CHDC/Ephesians Church of God In Christ: 1708 Harmon Street
3. Mike Uberti, HHCS, Officer Elections
4. Alisa Shen, Planning, Affordable Housing Development Funds for the Ashby and North Berkeley BART Station Areas
5. Mark Numainville, City Clerk, Temporary Suspension of Certain Provisions of the Commissioners' Manual for Subcommittees

### Correspondence

6. COB Feb. 9, 2021 Notice of Virtual Public Hearing and Opportunity to Comment: Consolidated Plan and PY19 Annual Action Plan Amendments
7. Taptango@gmail.com, Fwd: What an incredible sham meeting Mayor Arreguin held today to push TOPA! Randy Balluf, Constitutional Advocacy
8. okwujingyu@gmail.com, Very disappointed about TOPA meeting on Jan. 27

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the Secretary of the commission. If you do not want your contact information

included in the public record, please do not include that information in your communication. Please contact the Secretary for further information.

Written communications addressed to the Housing Advisory Commission and submitted to the Commission Secretary will be distributed to the Commission prior to the meeting. This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900.

**COMMUNICATION ACCESS INFORMATION:**



To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.



**HOUSING ADVISORY COMMISSION**  
**Wednesday, January 20, 2021**

Housing Advisory Commission

**Time: 7:02 pm**  
**Held via Video and Teleconference**

**Secretary – Mike Uberti**  
**HAC@cityofberkeley.info**

## **DRAFT MINUTES**

### **1. Roll Call**

Present: Xavier Johnson, Libby Lee-Egan, Mari Mendonca, Alexandria Rodriguez, Ainsley Sanidad, Maryann Sargent (arrival 7:12), Leah Simon-Weisberg, and Marian Wolfe.

Absent: None.

Commissioners in attendance: 8 of 8

Staff Present: Anna Cash, Katrina Lapira, Amanda Montez, Alene Pearson, Mike Uberti

Members of the public in attendance: 5

Public Speakers: 6

### **2. Welcome New Commissioners**

### **3. Agenda Approval**

Action: M/S/C (Mendonca/Simon-Weisberg) to approve the agenda.

Vote: Ayes: Johnson, Lee-Egan, Mendonca, Rodriguez, Sanidad, Simon-Weisberg, and Wolfe. Noes: None. Abstain: None. Absent: Sargent (unapproved).

### **4. Establish Ground Rules & Participation – Chair Johnson & Chair Kapla/All**

### **5. Public Comment**

There were three speakers during public comment.

### **6. Receive Presentation from Healthy Black Families – Ayanna Davis**

Public Comment: 3

### **7. Receive Presentation on Partnership for the Bay's Future (PBF) & Berkeley Initiatives – Anna Cash, Berkeley PBF Fellow**

Public Comment: 3

### **8. Discussion and Possible Action on Council Referral: Refer to the Planning Commission and Housing Advisory Commission to Research and Recommend Policies to Prevent Displacement and Gentrification of Berkeley Residents of Color and African Americans – All (Attachments 1-3)**

**9. Discussion and Possible Action on Subcommittee Appointments and Assignments**

Action: M/S/C (Sargent/Simon-Weisberg) to appoint Commissioners Mendonca, Rodriguez, and Sanidad with Johnson as an alternate to the Subcommittee on Displacement and Gentrification and to appoint Commissioners Johnson, Lee-Egan, and Simon-Weisberg with Rodriguez as an alternate to the Housing Trust Fund Subcommittee.

Vote: Ayes: Johnson, Lee-Egan, Mendonca, Rodriguez, Sanidad, Simon-Weisberg, and Sargent. Noes: None. Abstain: None. Absent: Wolfe (unapproved).

**10. Approval of the November 20, 2020 Special Meeting Minutes**

Action: M/S/C (Simon-Weisberg/Sargent)

Vote: Ayes: Johnson, Lee-Egan, Mendonca, Rodriguez, Sanidad, Simon-Weisberg, and Sargent. Noes: None. Abstain: None. Absent: Wolfe (unapproved).

**11. Update on Council Items**

**12. Announcements/ Information Items**

- a. Commissioner Stipends
- b. City of Berkeley Race Equity and Belonging Town Hall

**13. Future Items**

**14. Adjourn**

Action: M/S/C (Johnson/Rodriguez) to adjourn the meeting at 10:35 pm.

Vote: Ayes: Johnson, Lee-Egan, Mendonca, Rodriguez, Sanidad, Simon-Weisberg, and Sargent. Noes: None. Abstain: None. Absent: Wolfe (unapproved).

Approved:

\_\_\_\_\_, Mike Uberti, Secretary



Health Housing and  
Community Services Department  
**Housing & Community Services Division**

## MEMORANDUM

**To:** Housing Advisory Commission

**From:** Mike Uberti, Community Development Project Coordinator

**Date:** February 3, 2021

**Subject:** **February Officer Elections**

Housing Advisory Commission (HAC) officer elections are held each year in February. The offices established in the Commissioner Manual are Chair and Vice Chair. The term for each office is one year. An individual Chair may serve a maximum of two consecutive terms and there are no term limits for the Vice Chair.

The Chair presides over meetings of the HAC, and has numerous responsibilities outside the meeting. These include:

- Drafting all Commission-approved reports and correspondence in accordance with the requirements and in a timely way, or coordinating with other Commissioners to do so;
- Approving the final version of each Commission-approved report and correspondence, signing them and submitting them to staff;
- Representing the HAC at Council meetings for all HAC adopted items sent to Council;
- Completing officer training;
- Meeting with staff to discuss the agenda each month;
- Approving the final agenda for each meeting; and
- Receiving media requests on behalf of the HAC, subject to numerous restrictions explained in the Commissioner Manual.

While the Commissions continues to meet remotely, it is also **the duty of the Chair to navigate and control public comment and commissioner discussion via Zoom.**

The Vice Chair participates in agenda setting as well, and fills in for the Chair when the Chair is not available. If you have questions, please consult the Commissioners Manual: [http://www.ci.berkeley.ca.us/Clerk/Commissions/Commissions\\_Commission\\_Manual.aspx](http://www.ci.berkeley.ca.us/Clerk/Commissions/Commissions_Commission_Manual.aspx)  
I am also available to answer additional questions.

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The City Clerk noted that Commission rules have not been suspended, even in the pandemic, so term limits still apply. Chair Johnson's current term therefor counts as a second term and he is not eligible to be elected as Chair. Vice Chair Simon-Weisberg has also indicated she will not be seeking election as Chair or Vice Chair.

Commissioners are allowed to nominate themselves or a fellow appointed commissioner. A vote will not be taken until all candidates are nominated.

Health Housing and  
Community Services Department  
**Housing & Community Services Division**

## MEMORANDUM

**To:** Housing Advisory Commission (HAC)

**From:** Amanda Montez, Community Development Project Coordinator  
Mike Uberti, Community Development Project Coordinator

**Date:** February 10, 2021

**Subject:** **Predevelopment Loan Applications - CHDC/St. Paul AME: 2024  
Ashby Avenue & CHDC/Ephesians Church of God In Christ: 1708  
Harmon Street**

### Recommendation

At its January 27, 2021 meeting, the Housing Trust Fund (HTF) Subcommittee adopted the following recommendations to fund two predevelopment applications a total of \$2,255,360:

- M/S/C (Simon-Weisberg/Johnson) to recommend the City Council fund the Community Housing Development Corporation/St. Paul AME's predevelopment application request of \$1,198,960 for new construction affordable housing at 2024 Ashby Avenue.
- M/S/C (Johnson/Lee-Egan) to recommend the City Council fund the Community Housing Development Corporation/Ephesians Church of God in Christ (ECOGIC)'s predevelopment application request of \$1,056,400 for new construction affordable housing at 1708 Harmon Street.

There are currently sufficient funds in the HTF to support both of these requests, which would need to be approved by Council action.

### Housing Trust Fund Guidelines

The City's Housing Trust Fund Guidelines:

- Allow predevelopment loan applications to be submitted at any time.
- Encourage applicants to request predevelopment loan applicants between \$50,000 and \$500,000. However, loans of any size will be considered.
- At any point in time, predevelopment loan commitments should be 10% or less of the balance of HTF funds available at the time the request in order to ensure adequate development funding for projects in the pipeline. The current HTF balance is approximately \$6.4M, indicating a maximum recommended cap of

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\$640,000. In recent years, the City Council has approved larger predevelopment loans, such as those at 2012 Berkeley Way and 2001 Ashby Avenue, to account for escalating costs and needs.

**Project Description**

The Community Housing Development Corporation (CHDC), a Richmond-based nonprofit, teamed with two churches to submit two applications for predevelopment loan funds. The applications were prepared by Ronnie Turner of the Turner Development Resources Group, Inc. (TDRG) and Brad Flewellen of CEF Realty Advisors, Inc. (CEF). The two church sponsors are St. Paul AME (2024 Ashby Avenue) and Ephesians Church of God in Christ (ECOGIC) (1708 Harmon Street). Each church has or will form a separate partnership with CHDC which would borrow the City’s funds and own the developments. TDRG and CEF will manage the development and financing activities on behalf of the partnerships. The City has never previously funded the sponsors or their consultants.

Staff are presenting both applications together as they include the same development team (except the architects), the same proposed development funding package (City funds, AHSC and tax credits), and the same timeline. The primary difference is that ECOGIC is slightly smaller and is proposed as all senior housing.

Table 1. Predevelopment Budget Proposals

<b>Uses</b>	<b>St Paul AME</b>	<b>ECOGIC</b>
Land Deposit	\$150,000	\$150,000
Architectural Fees	\$259,600	\$130,000
Survey & Engineering Costs	\$105,000	\$105,000
Environmental & Geotech	\$ 63,500	\$ 63,500
Traffic Study	\$ 12,500	\$ 12,500
CEQA/NEPA Consultants	\$ 40,000	\$ 40,000
Energy Consultant	\$ 45,000	\$ 45,000
Local Permit Fees	\$ 35,000	\$ 35,000
Funding Application Fees	\$115,000	\$115,000
Developer Consultant	\$108,000	\$108,000
Financial Consultant	\$ 80,000	\$ 80,000
Market Study	\$ 15,000	\$ 15,000
Appraisal Costs	\$ 12,000	\$ 12,000
Accounting & Legal	\$ 55,000	\$ 55,000
Other - General Admin	\$ 20,000	\$ 20,000
Contingency	\$ 83,360	\$ 70,400
<b>Total Predevelopment Uses</b>	<b>\$ 1,198,960</b>	<b>\$ 1,056,400</b>

The amount of predevelopment funding requested is reasonable respective to the proposed size of each project. The budgeted items are appropriate for predevelopment and consistent with cost expectations.

## **Summary Analysis**

### Developer Capacity

CHDC meets the HTF Guidelines' threshold criteria for development experience, and relies on rehabilitation projects (rather than new construction) to do so. CHDC has completed only one new construction tax credit project without a more experienced partner. TDRG and CEF are described as co-developers and are proposed to lead the development activities.

TDRG and CEF have substantial experience in residential development and real estate finance, respectively, including both affordable and unsubsidized housing. The team appears capable of undertaking the proposed project but does not have the deep track record in tax-credit financing for affordable housing development that is common in other frequent HTF borrowers. However, CEF has worked on three Oakland projects with over 350 affordable units that received AHSC funds totaling approximately \$70M (including Coliseum Connections, Mandela Station, and Lakehouse Commons, an EBALDC project). Oakland City staff indicated CEF successfully managed AHSC applications as well as the pro formas and funding information needed to move the projects forward.

Between CHDC, Ronnie Turner, and Brad Flewellen, there appears to be sufficient capacity to complete all the proposed predevelopment activities for both applications.

### Feasibility

Generally, the projected sources and uses of funds are reasonable. Staff did not identify any significant concerns with feasibility of the proposed predevelopment activities.

Looking ahead to the development phase, the projected development costs may be somewhat underestimated. When compared to the City's recent affordable pipeline. St. Paul AME is 5% to 12% and ECOGIC is 10% to 17% below other new construction projects in the pipeline on a per unit basis. There are five projects with AHSC funding and tax credits in the City's pipeline now; all required more sources than proposed in these applications to cover their costs.

If the development costs are higher than currently projected, the City would either need to provide a higher level of development financing and/or the projects will need to identify and secure additional funding sources. The predevelopment loans will allow the teams to work on refining the budgets and funding plans, which is a key activity of all development teams during the predevelopment phase.

Table 2. Project Overview

Sponsor	CHDC/St. Paul AME	CHDC/ECOGIC
Proposed borrower	St. Paul AME (St Paul AMCOB Development Partnership to be formed)	Ephesians Church of God in Christ (Ephesian COGIC Housing Development Partnership)
Majority control of partnerships	CHDC	CHDC
Address	2024 Ashby Ave.	1708 Harmon St.
Predevelopment request	\$1,198,960	\$1,056,400
Number of Units	62	54
Proposed Unit Type	30 Studios, 18 one-bedrooms, 5 two-bedrooms, 1 manager unit	61 one-bedrooms, 1 manager unit
Proposed funding sources	City, AHSC and tax credits	City, AHSC and tax credits (potentially other HCD Programs)
Projected City development loan	\$10,386,078	\$10,594,373
Total development cost per unit	\$672,021	\$640,454
Proposed Property Lease	99 year minimum long term lease by CHDC	Minimum of 65 years, with a max of 99 years

Having two simultaneous projects with the same development team, timeline, and proposed funding mix poses several challenges, including development team capacity at peak times and completing against each other for funding. This may affect the feasibility of one or both projects. It is likely that one project will move ahead of the other during the predevelopment phase. The team may also look at differentiating timing or proposed funding in order to mitigate these challenges.

The availability of City development funds for the projected schedules is uncertain. The City will not have enough Measure O funds in the second issuance to fund both St. Paul AME and ECOGIC (combined total of \$21M), since the Council has already reserved \$15.5M for the 2001 Ashby development and prioritized an educator housing project sponsored by Berkeley Unified School District from that issuance, currently estimated at \$40M. Funds may not be available until the third issuance (anticipated for 2025). Long term funding availability may also be affected by the City's commitments to developing the North Berkeley and Ashby BART sites as well as other pending pipeline projects.

The development team will further refine their funding plan during the predevelopment period and staff and Commission can review the proposal for development funds when ready. Generally, having site control and close proximity to BART and the surrounding amenities (e.g., senior center, elementary schools, Berkeley Bowl) are boons to long term feasibility.

Community Objectives

There is a high level of support for affordable housing in the Adeline Corridor and a high level of demand for affordable housing in Berkeley. This indicates a low market risk and high-level of community acceptance for both projects.

Both sites close proximity to Ashby BART station are also ideal candidates to meet the City's climate action goals by increasing housing opportunities near public transit.



Department of Planning & Development

To: Measure O Bond Oversight Committee  
Housing Advisory Commission

From: Alisa Shen, Principal Planner, Department of Planning and Development

Subject: Affordable Housing Development Funds for the Ashby and North Berkeley  
BART Station Areas

Date: February 1, 2021

The purpose of this report is to provide the Commissions with background information about the process to redevelop the Ashby and North Berkeley BART station areas so that they can make recommendations to Council regarding reserving affordable housing funds for these BART sites and other housing priorities at their next meeting (anticipated in March).<sup>1</sup>

### SUMMARY

Spurred by the requirements of Assembly Bill 2923 and the opportunity to achieve mutual objectives of creating housing, including substantial amounts of deed-restricted affordable housing adjacent to transit and reducing greenhouse gas emissions, the City and BART have embarked on a process to redevelop the Ashby and North Berkeley BART station areas. The City Council and BART Board unanimously adopted a Memorandum of Understanding (MOU) in December 2019 and January 2020, respectively. The MOU lays out a process for community engagement, zoning, station access and affordable housing decisions, among other things.

In June 2020, the City and BART initiated the preliminary planning stage of the overall planning process for the Ashby and North Berkeley BART stations which will result in new zoning that conforms with AB 2923, a City and BART Joint Vision and Priorities document, and other elements for inclusion in the Request for Qualifications (RFQs) for developer(s). A critical milestone in this joint planning process is a City decision to “set-aside sufficient funding to assure BART, in its sole discretion, that at least 35% of the housing units proposed to be constructed at the BART properties would be deed-restricted to low, very low and/or extremely low affordable housing” (City and BART

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<sup>1</sup> The same report is being provided to the Housing Advisory Commission and the Measure O Bond Oversight Commission because of its complex and interrelated content. The Measure O Bond Oversight Commission is charged with overseeing the use of Measure O funds, while the Housing Advisory Commission is charged with housing policy generally, the Housing Trust Fund program, and Measure U1 funds.

MOU, Section IV.A). The timeframe for this decision by City Council is no later than April 2021. According to the MOU, BART and the City are to confer to determine whether the City will have greater than normal level of involvement in the developer selection process following this decision.

The Ashby and North Berkeley BART station properties encompass 6.3 acres and 8 acres of land, respectively. Delivering a high amount of affordable housing will require a significant, long-term commitment of local source funding from the City. At this point in the planning process, there are still many “unknowns” that will need to be revisited in the future to inform the final number and type of affordable units that will be proposed at the Ashby and North Berkeley BART stations. As discussed in more detail below, there are still a number of critical outstanding questions about the physical design, parking, infrastructure, and community uses at both sites which will have significant impacts both on how much housing can be built and how much it will cost. Despite these outstanding questions, it is possible to approximate the amount of public subsidy needed to achieve various amounts of affordable housing, in order to inform preliminary decisions and next steps to securing needed funding.

This report provides background information about the BART sites for the Measure O Bond Oversight Committee (MOBOC) and the Housing Advisory Commission (HAC) to consider so that they can make recommendations to the City Council regarding housing funding under their respective purview at their next meetings (anticipated in March). These recommendations will address the City-BART MOU milestone regarding set-aside of City affordable housing funding for development of the Ashby and North Berkeley BART stations relative to other Notices of Funding Availability (NOFAs)

### CURRENT SITUATION AND ITS EFFECTS

The redevelopment of the Ashby and North Berkeley BART stations provides a rare opportunity for the City of Berkeley and BART to collaborate to build new and much needed permanently affordable housing. There are no other publicly-owned sites of this size and adjacent to a regional transit station that can make significant progress towards the City’s housing needs and also achieve multiple City and BART objectives to reduce greenhouse gas emissions and provide public space and other desired community amenities. In addition, in 2018, Governor Jerry Brown signed Assembly Bill 2923 (AB 2923) which requires the City of Berkeley to zone the Ashby and North Berkeley BART stations to conform with specific development standards no later than July 1, 2022.<sup>2</sup> The current zoning at the Ashby BART Station and North Berkeley BART Station does not comply with AB 2923.

In recognition of this unique opportunity, in December 2019 the City Council unanimously voted to engage with BART on a Memorandum of Understanding (MOU)

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<sup>2</sup> <https://www.bart.gov/ab2923>

to develop the Ashby and the North Berkeley BART station areas.<sup>3</sup> The MOU establishes a framework for how the City and BART will work together to develop the Ashby and North Berkeley BART stations. It outlines required activities and timelines for required community engagement, including a City Council-established, 15-member Community Advisory Group (CAG); development of zoning that conforms to AB 2923; identifying City funding for affordable housing; and station access studies.

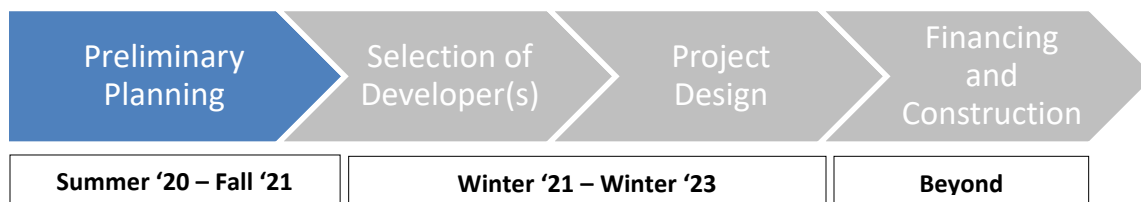
With regards to identifying City affordable housing funding, Section IV.A of the MOU states:

“To demonstrate its commitment to advancing development at BART property, and in consideration for its inclusion as a high priority in BART’s 10-year work plan for development, the City will: 1) complete rezoning of the properties by June 2021, and 2) make a decision by the end of December 2020 to set-aside funding sufficient to assure BART, in its sole discretion, that at least 35% of the housing units proposed to be constructed at the BART Properties would be deed-restricted to low, very low and/or extremely low affordable housing.”

Due to delays caused by the pandemic, BART and the City mutually agreed to extend the December 2020 deadline to April 2021.

Many of the important details of the future BART station projects cannot be finally determined until after a developer has been selected and actual projects have been designed. There will be continued community engagement after the selection of future developers to refine potential project(s) details related to station access and parking management, physical design and affordable housing unit count, affordability levels and populations served (**Figure 1**).

**Figure 1. Planning Process for Berkeley Transit-Oriented Development**



<sup>3</sup> City of Berkeley Council Meeting, Item 3, December 10, 2019:  
[https://www.cityofberkeley.info/Clerk/City\\_Council/2019/12\\_Dec/Documents/2019-12-10\\_Item\\_31\\_Approval\\_of\\_a\\_Memorandum.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/12_Dec/Documents/2019-12-10_Item_31_Approval_of_a_Memorandum.aspx)

## A. Estimated Subsidy Needed for Affordable Housing

The City has engaged Street Level Advisors, a housing economics firm, to analyze the amount of affordable housing subsidy and likely required timing (or phasing) to achieve the MOU minimum threshold of 35% (at low, very low and/or extremely low income levels) and higher levels of affordable housing at the BART sites (**Attachment 1**).

The analysis estimated how much affordable housing could be built based on the following three factors: physical design, available subsidy and timing of development. Conceptual site designs were developed to test how much housing could fit on each site, given various assumptions about the building height/construction type, public open space and building configuration. The site concepts modeled development scenarios with buildings ranging from four to eight stories on all developable area.<sup>4</sup>

Street Level Advisors' estimates indicate that achieving the minimum goal of 35% affordable housing at each site as outlined in the MOU would require between **\$30 and \$64 million dollars** of subsidy from the City of Berkeley depending on the overall scale of each project (See Table 9, Attachment 1). Because Assembly Bill 2923 requires that the zoning standards for the sites allow development of at least 7 stories, the conceptual site design using a 7-story building height at each BART site (estimated at 850 apartments at Ashby and 775 apartments at North Berkeley) was selected to further model potential project phasing various levels of affordability. Street Level Advisors' projections indicate that development at this scale would require approximately **\$53 million** in City subsidy for 35% affordable housing (estimated at 298 affordable units at Ashby and 271 at North Berkeley).

Many stakeholders in both neighborhoods have expressed a strong desire for these developments to include more than 35% affordable housing. Street Level Advisors' analysis also presents estimates of the amounts of City subsidy that would be required to achieve higher levels of affordability at each site. As the share of affordable housing increases and the number of market rate units decreases, the amount of developer contribution from market rate buildings will decline. This means that the required level of City subsidy per unit will increase at the same time that the number of funded units rises, resulting in large increases in the amount of funding needed from the City. Table 11 of Attachment 1 (reproduced in this report as Table 1 below) shows estimates of the City subsidy needed to achieve higher amounts of affordable housing in the following two scenarios:

- Increasing amounts ranging from 50% to 100% affordable housing at Ashby BART and 35% at North Berkeley BART;

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<sup>4</sup> An actual project would have variation in building height across the site (e.g. some shorter, some taller than the evaluation scenarios).



- The same amount of affordable housing at both BART sites at the following levels: 50%, 75% and 100%.

Table 1 only shows City subsidy needed based on the amount of subsidy the City has invested in recent affordable housing developments. The total project subsidy would be much greater, including state and federal sources.

**Table 1 – Street Level Advisors’ Memorandum, Table 11: City Subsidy Needed<sup>5</sup>**

Ashby		North Berkeley		TOTAL
% Affordable	City Cost	% Affordable	City Cost	
35%	27,760,208	35%	\$ 25,018,016	\$ 52,778,224
50%	\$ 58,207,950	35%	\$ 25,018,016	\$ 83,225,966
60%	\$ 78,586,360	35%	\$ 25,018,016	\$ 103,604,376
70%	\$ 98,964,770	35%	\$ 25,018,016	\$ 123,982,786
75%	\$ 109,273,848	35%	\$ 25,018,016	\$ 134,291,864
80%	\$ 119,343,180	35%	\$ 25,018,016	\$ 144,361,196
85%	\$ 129,652,258	35%	\$ 25,018,016	\$ 154,670,274
90%	\$ 139,721,590	35%	\$ 25,018,016	\$ 164,739,606
95%	\$ 150,030,668	35%	\$ 25,018,016	\$ 175,048,684
100%	\$ 160,100,000	35%	\$ 25,018,016	\$ 185,118,016
50%	\$ 58,207,950	50%	\$ 49,967,475	\$ 108,175,425
75%	\$ 109,273,848	75%	\$ 96,418,263	\$ 205,692,111
100%	\$ 160,100,000	100%	\$ 142,869,050	\$ 302,969,050

Because of the limitations of the amount of non-City (e.g. federal, State and other funding sources) and City subsidy available and maximum project size (constrained by funding, City staff, BART staff and developer capacity), increasing the percentage/ amount of affordable housing will also increase the amount of time it takes to complete construction of all of the units. Street Level Advisors’ analysis also provides an illustrative timeframe, or phasing scenario, to achieve various levels of affordable housing, increasing from 35% to 100% at Ashby and 35% at North Berkeley, assuming 850 apartments at Ashby and 775 at North Berkeley. BART’s goal is to complete all construction by 2031 to help fulfill the City’s Regional Housing Needs Allocation (RHNA) requirements.<sup>6</sup> Due to constraints of project size and availability of different types of funding, Street Level Advisors estimates that producing the minimum MOU threshold of 35% affordable housing at both stations would require at least five separate projects

<sup>5</sup> Based on conceptual site design assuming 850 housing units at Ashby and 775 at North Berkeley.

<sup>6</sup> BART’s Transit-Oriented Development goal for project schedule is to complete all housing and other aspects of the project within five years of entitlement (assuming healthy economic activity and financial conditions) and by no later than 2030 in order to fall within the 2023-2031 Housing Element planning period.

and would not be completed until 11 years after developer(s) selection.<sup>7</sup> For comparison purposes, scenarios with increasingly higher percentages of affordable housing at Ashby plus 35% at North Berkeley are also provided, which increases the overall timeframe. For example, building 100% affordable at Ashby is estimated to require roughly nine separate phases and at least 17 years. Table 12 of Attachment 1 is reproduced below for reference.

**Table 2 – Street Level Advisors’ Memorandum, Table 12: Phasing Estimates<sup>8</sup>**

**Phasing Scenario**

*Specific phasing cannot be predicted at this stage, this simply provides an example*

Ashby %	#Units	North Berkeley %	Units	Total Units	Phases	Average Size	Minimum Years to completion
35%	298	35%	271	569	5	114	11
50%	425	35%	271	696	6	116	13
75%	638	35%	271	909	7	130	14
100%	850	35%	271	1121	9	125	17

**B. Status of Existing City Affordable Housing Funding**

As noted above, Street Level Advisors’ estimates indicate that achieving the minimum goal of 35% affordable housing at each site as outlined in the MOU would require between \$30 and \$64 million dollars of subsidy from the City of Berkeley depending on the overall scale of each project. The City’s currently available housing funding is shown below in Table 3. An overview of the City’s already committed housing funding and potential future requests for funding are summarized in **Attachment 2**. At the next meeting of the MOBOC and the HAC (anticipated in March), staff will provide additional information and options for the Commissions to consider and seek a recommendation to Council regarding reserving housing funds for the Ashby and North Berkeley sites and other potential requests for City affordable housing funds.

<sup>7</sup> The eleven year period is the estimate for completion of the entire project; the expectation is that the first affordable housing residents could move into projects at one of these sites at approximately five years after developer selection.

<sup>8</sup> Based on conceptual site design assuming 850 housing units at Ashby and 775 at North Berkeley.

**Table 3. Current Available and Projected Affordable Housing Funding Sources**

Source	Amount	Notes
Measure O	\$61M	Amount available after funds reserved for 2001 Ashby and an allowance of \$20M for a BUSD-sponsored project. Staff anticipate \$4M available in 2022, \$35M in 2025 and \$22M in 2027.
Measure U1	\$2.5M	Anticipated available for HTF activities in FY2023, pending availability of revenue.
Permanent Local Housing Allocation (PLHA)	\$3M	Anticipated available for HTF rehab activities in FY2023-2025, pending availability of revenue. These are not included in the total for the BART sites since the City's application designated them for rehabilitation.
Housing Trust Fund (HTF)	\$3.4M	Balance currently available less amounts requested by CHDC/St. Paul AME and CHDC/Ephesians for predevelopment.
<b>Total</b>	<b>\$69.9M</b>	

**BACKGROUND**

In December 2019 and January 2020, respectively, the City Council and the BART Board unanimously voted to approve a Memorandum of Understanding (MOU) that establishes a framework for how the City and BART will work together to develop of the Ashby and North Berkeley BART stations. The MOU outlines a series of activities and timelines for:

- Required community engagement, including a Community Advisory Group (CAG) created by the City Council to advise the Planning Commission;
- Development of zoning that conforms to Assembly Bill 2923 (AB 2923), a City and BART Joint Vision and Priorities document and other content for Requests for Qualifications (RFQs) for developer(s);
- BART actions to implement AB 2923;
- Timing and process for the City to identify funding for a minimum threshold of at least 35% of the housing units proposed to be constructed at the BART properties which would be deed-restricted to low, very low and/or extremely low affordable income levels;
- Roles for future decision-making in the developer(s) selection process; and
- Station access studies (funded by grants and future developers).

**A. Ashby and North Berkeley BART Station Areas**

The Ashby and North Berkeley BART Stations consist of two regional transit stations that are located in developed areas and are generally surrounded by residential and

mixed use development. BART is the property owner, however the City retains an option to purchase the “air rights” over the parcel on the west side of Adeline at the Ashby Station.

- The Ashby BART station site consists of two parcels: a 4.4-acre parcel that makes up the block surrounded by Adeline Street, Ashby Avenue and Martin Luther King Jr Way, which includes the station building and surface parking; and a 1.9-acre surface parking lot located on the north side of Tremont Street on the block surrounded by Woolsey Street, Tremont Street, Adeline Street and Essex Street in south Berkeley (**Figure 1**). The Ed Roberts Campus is located between the two parcels.
- The North Berkeley BART Station site includes an 8.1 acre site currently occupied by the station entrance building, surface parking, and a BART operations building, on the block surrounded by Sacramento Street, Delaware Street, Acton Street and Virginia Street in north Berkeley. The BART tracks and tunnel run diagonally through the site, underground. In addition, three “auxiliary lots”, located within ½-mile of the station to the north and west along the Ohlone Greenway are currently used for surface parking and for a community garden.<sup>9</sup>

## **B. Existing Plans and Policies: Affordable Housing Framework**

As noted in the City and BART MOU, in addition to Assembly Bill 2923, there are a number of plans and policies that provide a policy framework for the current planning effort for the Ashby and North Berkeley BART stations. Elements of the documents relating to development and affordable housing are highlighted below.

1. **The Adeline Corridor Specific Plan.** The Plan sets forth a vision, policies and objectives in Chapter 3, Policy 3.7 relating to the Ashby BART station area (**Attachment 3**).<sup>10</sup> Specifically, Policy 3.7 states that the City and BART should “strive for a goal of 100% deed-restricted affordable housing” but that the amount of housing and levels of affordability shall be determined through the process outlined in the Memorandum of Understanding (MOU) that will involve additional land use and economic feasibility studies. As part of its approval of the Adeline Corridor Specific Plan, the Council also referred to the Measure O Bond Oversight Committee and the HAC to consider setting aside at least an initial allocation of \$50 million of local funds for affordable housing (e.g. Measure O,

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<sup>9</sup> The auxiliary lots include a 0.75 acre surface parking lot at the northwest corner of the intersection of Acton and Virginia Streets; an 0.44 acre surface parking lot located on the west side of Franklin Street between Virginia and Cedar Streets; and an 0.64 acre parcel currently occupied by the Peralta and Northside Community Gardens located between Peralta and Northside Avenues.

<sup>10</sup> Adeline Corridor Specific Plan, Adopted by City Council on 12/8/20:  
[https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Land\\_Use\\_Division/Adeline%20Corridor%20Specific%20Plan%20Nov.%202020.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Land_Use_Division/Adeline%20Corridor%20Specific%20Plan%20Nov.%202020.pdf)

Measure U1, Measure P, Housing Trust Fund) for the Adeline Corridor, and in particular, for the Ashby BART subarea.<sup>11</sup>

2. **North Berkeley BART Development Goals and Objectives.** During 2018 – 2019, several community meetings were convened by Mayor Arreguin, former Councilmember Maio and Councilmember Kesarwani, resulting in the City Council approving goals and objectives for development at North Berkeley BART in May 2019. Specifically, there is a goal to “maximize the number of affordable below-market-rate units that are available to low-income households of diverse types and sizes, including affordable live/work units for artists”, including considering exceeding BART’s system-wide 35% affordability goal and the possibility for up to 100% of units to be deed-restricted affordable housing (**Attachment 4**).
3. **City of Berkeley General Plan and Climate Action Plan.** The City of Berkeley’s General Plan and Climate Action Plan include policies that support construction of well-designed medium and high-density housing and commercial development along transit corridors to help meet the City’s affordable housing and greenhouse gas emissions reduction goals.<sup>12</sup> The Land Use and Housing Elements of the City General Plan include policies that encourage zoning for higher density in proximity to the Ashby and North Berkeley BART stations and along the City’s transit corridors. The Land Use Element includes a policy specific to the Ashby BART station (Policy LU-32) to include “multi-family, transit-oriented housing and ground-floor commercial space and if feasible, at least 50% of housing units should be affordable to low and very-low income households”.<sup>13</sup>
4. **BART’s Transit Oriented Development (TOD) Goals and Objectives for Berkeley.** BART also has a series of adopted policies and performance targets guiding transit-oriented development, affordable housing and station access (summarized in **Attachment 5**). BART’s affordable housing policy requires a minimum of 20% affordable housing minimum in its projects, prioritizing the greatest depth and quantity of affordable housing, and has a system-wide affordability target of 35% affordable housing. BART’s TOD goals and objectives also include project timelines (e.g., project completion with five years of planning approvals and/or by 2030) and other development parameters related to project feasibility and increasing ridership.
5. **Assembly Bill 2923 (AB 2923).** Signed into law by Governor Jerry Brown in September 2018, AB 2923 sets forth specific zoning standards for height, density, parking, and floor area ratio for BART-owned properties within ½-mile of station entrances in Alameda, Contra Costa and San Francisco counties. Local

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<sup>11</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/12\\_Dec/Documents/2020-12-08\\_Item\\_01\\_Adoption\\_of\\_the\\_Adeline\\_Corridor\\_Specific\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/12_Dec/Documents/2020-12-08_Item_01_Adoption_of_the_Adeline_Corridor_Specific_pdf.aspx)

<sup>12</sup> The City intends to initiate a comprehensive update of the Housing Element Update for the 2023-2031 (Sixth Cycle) Reporting Period later in 2021, which includes analyzing options to amend the City’s zoning to allow for the construction of Berkeley’s Regional Housing Needs Allocation (RHNA), as determined by the Association of Bay Area Governments.

<sup>13</sup> See General Plan Land Use Element policies: LU-23, LU-25, LU-32; Housing Element policy H-12.

jurisdictions have until July 1, 2022 to develop zoning for applicable BART properties that conforms to AB 2923. BART is charged with implementing AB 2923 and has produced a guidance document to help local jurisdictions understand the state law and how BART will determine conformance.<sup>14</sup> AB 2923 zoning standards for the Ashby BART Station and North Berkeley BART Station must allow the following:

- Development at a density of 75 units per acre (or higher);
- Development at a height of 7 stories (or higher); and
- Development with a Floor Area Ratio (FAR) of 4.2 (or higher).

In addition, the following parking standards are required:

- No minimum required vehicle parking;
- No more than one vehicle parking space per unit is permitted; and
- A minimum of one bicycle parking space per unit.

### **C. Planning Process and Community Engagement To-Date**

The City initiated meetings with the Council-appointed Community Advisory Group (CAG) in June 2020 as part of the preliminary stage to develop the Ashby and North Berkeley BART sites.<sup>15</sup> The Council-appointed Community Advisory Group (CAG) has met four times to date, with discussion topics including affordable housing, open space, land use and design. The City has also hosted two community meetings. Over the course of 2021, the recommendations that emerge from this process will be presented to the Planning Commission and then to the City Council. While recommendations have not been finalized, to date the community has expressed very strong support to build as many affordable housing units as possible on both sites, in addition to the aforementioned Adeline Corridor Specific Plan goal to strive for 100% affordable housing at the Ashby BART station.

A key issue in the discussions of affordable housing is the availability of current and future subsidies to support a deeply equitable and affordable transit-oriented development project. As BART has indicated an intent to initiate a developer solicitation process by the end of 2021, it will be important to have an understanding of the City's current and potential funding commitments to deliver on the community's affordable housing priority.

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<sup>14</sup> BART AB 2923 Implementation: [www.bart.gov/AB2923](http://www.bart.gov/AB2923)

<sup>15</sup> Information about the City's planning process for the Ashby and North Berkeley BART stations, including meetings of the Community Advisory Group (CAG) and other public meetings is available on the City's website: [www.cityofberkeley.info/bartplanning](http://www.cityofberkeley.info/bartplanning)

Attachments:

- 1: Estimated Need for Housing Subsidy for the Ashby and North Berkeley BART Stations – Memorandum prepared by Street Level Advisors (January 2021)
- 2: Currently Committed and Potential Requests for City Affordable Housing Funding (As of January 2021)
- 3: Adeline Corridor Specific Plan (Adopted by City Council December 8, 2020) - Excerpt: Chapter 3, Policy 3.7
- 4: North Berkeley BART Station Goals and Objectives (Adopted by City Council May 9, 2019)
- 5: BART's Development Parameters (Presented to the Community Advisory Group, June 8, 2020)



**MEMO**

**To:** Alisa Shen, City of Berkeley  
**From:** Rick Jacobus, Street Level Advisors  
**RE:** Estimating the Need for Housing Subsidy for the Ashby and North Berkeley BART Stations  
**Date:** January 21, 2021

## Executive Summary

The redevelopment of the North Berkeley and Ashby BART stations provides a once in a generation opportunity for the City of Berkeley to build new and much needed permanently affordable housing. This memo summarizes the key factors in amount of affordable housing subsidy needed from the City of Berkeley in order to achieve specific levels of affordable housing at each site.

Our projections assume that affordable housing at either site will be clustered into 100% affordable housing buildings serving households below 60% of Area Median Income (AMI) including a share of units at each site serving households earning less than 30% of AMI. Street Level Advisors assumes that these projects will be financed with state and federal housing subsidies but will also require a significant amount of 'local' funding.

The amount of 'local' funding needed per unit of affordable housing is a critical assumption. In recent years, the City of Berkeley's investment per unit of affordable housing has grown rapidly. Based on recent data from Berkeley, Oakland, and the rest of Alameda County, we have assumed that \$200,000 in 'local' funding would be needed for each affordable unit at the BART sites. We anticipate that this funding will be provided from three different sources.

1. Developer contributions (internal subsidy) from market rate projects on the BART sites
2. Discounted land rent provided by BART for projects with at least 35% affordable housing, and
3. Cash subsidy from the City of Berkeley.

Street Level Advisors modeled the likely value of developer contributions and BART land discounts for various development scenarios in order to estimate the remaining amounts that would be needed from the City of Berkeley to achieve different levels of affordable housing at each site.



The Memorandum of Understanding (MOU) between the City of Berkeley and BART requires the City to set aside affordable housing funds to achieve a minimum goal of 35% affordable housing at each site. This would require between \$30 and \$64 million dollars of subsidy from the City of Berkeley depending on the overall scale of each project.

Because Assembly Bill 2923 requires that the City zone the sites to allow development of at least 7 stories, it is prudent for the City to budget for the potential of development on that scale, estimated at 850 apartments at Ashby and 775 apartments at North Berkeley. Street Level Advisors' projections indicate that achieving the minimum goal of 35% affordable housing at each site would require approximately \$53 million in City subsidy

Many stakeholders in both neighborhoods have expressed a strong desire for these developments to include more than 35% affordable housing. The memo also presents estimates of the levels of City subsidy that would be required for various additional levels of affordability at each site. As the share of affordable housing increases and the number of market rate units decreases, the amount of developer contribution from market rate buildings will decline. This means that the required level of City subsidy per unit will increase at the same time that the number of funded units rises, resulting in large increases in the amount of funding needed from the City. Table 11 presents these estimates.

Table 11: Estimates of City Subsidy Needed

Ashby		North Berkeley		TOTAL
% Affordable	City Cost	% Affordable	City Cost	
35%	27,760,208	35%	\$ 25,018,016	\$ 52,778,224
50%	\$ 58,207,950	35%	\$ 25,018,016	\$ 83,225,966
60%	\$ 78,586,360	35%	\$ 25,018,016	\$ 103,604,376
70%	\$ 98,964,770	35%	\$ 25,018,016	\$ 123,982,786
75%	\$ 109,273,848	35%	\$ 25,018,016	\$ 134,291,864
80%	\$ 119,343,180	35%	\$ 25,018,016	\$ 144,361,196
85%	\$ 129,652,258	35%	\$ 25,018,016	\$ 154,670,274
90%	\$ 139,721,590	35%	\$ 25,018,016	\$ 164,739,606
95%	\$ 150,030,668	35%	\$ 25,018,016	\$ 175,048,684
100%	\$ 160,100,000	35%	\$ 25,018,016	\$ 185,118,016
50%	\$ 58,207,950	50%	\$ 49,967,475	\$ 108,175,425
75%	\$ 109,273,848	75%	\$ 96,418,263	\$ 205,692,111
100%	\$ 160,100,000	100%	\$ 142,869,050	\$ 302,969,050

Note: Estimates are based on hypothetical site concept using 7-story building heights on all developable area. Figures have not been adjusted for inflation.

Even at the minimum level contemplated (35% affordable), affordable housing development will need to be completed in multiple phases. Limitations in the availability of state and federal resources have the effect of limiting the size of each project to

generally less than 140 units. We have assumed that any affordable project would require roughly 5 years for development and that these phases would need to be staggered by at least one to two years. As a result we anticipate that full build out of these affordable projects will take between 11 and 17 years depending on the number of affordable units built.

There is broad support for the goal of maximizing the number of affordable units at both sites and in particular at Ashby. There is likely to be a limit to what is possible given the magnitude of affordable housing subsidy needed and other factors. Until levels of BART patron parking and infrastructure costs can be further analyzed, and developers create more detailed plans for the sites, it will not be possible to know exactly how much overall housing can be built. But it is important to recognize that the selected developers may have an incentive to include less than the maximum number of affordable units. For this reason, Street Level Advisors recommends that the City and BART explore the potential for selecting a local affordable housing nonprofit (or a partnership led by a local nonprofit) to serve as Master Developer for one or both sites. Selecting a Master Developer with a mission focused on affordable housing and a track record of engaging the community could help community members and public officials to trust and accept a finding that it is not practical to exceed a certain (high) share of affordable housing.

## I. The Opportunity for Affordable Housing

The redevelopment of the North Berkeley and Ashby BART stations provides a once in a generation opportunity for the City of Berkeley to build new and much needed permanently affordable housing. Both because they are large sites under public control and because of the potential for market rate housing on either site to cross-subsidize adjacent affordable housing, these sites are likely to provide a unique opportunity to expand the supply of permanently affordable housing in Berkeley. One of the key questions in the redevelopment of these two sites is how much affordable housing can be provided given the financial and physical constraints of the sites.

This memo summarizes the key factors influencing this outcome and provides Street Level Advisors' estimate for the amount of affordable housing subsidy that would be needed from the City of Berkeley in order to achieve specific levels of affordable housing at each site.

Since it addresses a highly technical question, this memo necessarily uses some technical jargon. We have attempted to limit the jargon and define terms as clearly as possible. We have also produced a set of videos which provides straightforward definitions as well as background and context for this decision. Many stakeholders will find it helpful to view these videos before reading this memo. The videos are available at [http://streetleveladvisors.com/?avada\\_portfolio=berkeley-affordable-housing-videos](http://streetleveladvisors.com/?avada_portfolio=berkeley-affordable-housing-videos).

## II. How much affordable housing is feasible?

The amount of affordable housing that can be built at each site is a function of three factors: the physical design of the sites, the availability of subsidy, and assumptions about the timing of development.

- **Physical Design:** How many housing units (of any type) can fit on the site given design constraints such as building heights, required open space, parking requirements, etc.
- **Available Subsidy:** Deed-restricted affordable housing units require public subsidy to bring the rents down to an affordable level. While there are hundreds of potential subsidy sources, for this analysis we are concerned with three potential categories:
  - a. State and Federal Affordable Housing Subsidy Programs
  - b. Internal subsidy generated by market rate housing (if any) on the sites
  - c. City of Berkeley housing subsidy (from any source controlled by the city)

- **Timing:** Because the size of each affordable housing development is limited by financing and other factors, scenarios that involve large numbers of affordable housing units will need to be built in multiple phases which may be staged over many years. Limiting the time period for development might create a practical limit to the number of affordable housing units that can be built at either site.

Street Level Advisors collaborated with designers from Van Meter Williams Pollack (VMWP) in an exercise to more closely evaluate the potential for the sites. VMWP developed preliminary site designs to test how much housing could fit on each site given various assumptions about the building height, public open space, and building configuration. Street Level Advisors developed preliminary estimates for the cost of construction and the potential revenues for potential market rate and affordable development alternatives on each site. This memo summarizes our key findings and outlines the implications in terms of the need for subsidy and the anticipated timing requirements for various levels of affordable housing at each site.

#### A. What we still don't know

While the numbers presented below are based on the best information available today and are consistent with results from comparable real projects (both completed and currently under development), it is important to understand that these projects are still in the early stages and there are some critical gaps in our knowledge which limits our ability to fully forecast the need for subsidy. First, as we explain below, the real estate market in the Bay Area is experiencing a period of high uncertainty due to the impact of COVID-19. This uncertainty makes it difficult to evaluate the potential for cross subsidy from market rate residential development. Under market conditions today, market rate development of either site may not be feasible (with or without affordable housing requirements). There is every reason to believe that conditions will stabilize and that there will be high demand for housing at both sites by the time that projects could be built. However, it is not possible to predict how profitable projects will be at that point, making it difficult to evaluate how much internal subsidy (cross subsidy from market rate projects) will be possible.

Second, there are still a number of critical outstanding questions about the physical design and community uses at both sites which will have highly significant impacts on how much housing can be built and how much it will cost. For example, no decision about the level of replacement BART patron parking has yet been made. BART is working on an Access Study which will be available in the spring of 2022 and provide the information necessary to make this decision. Because parking is very expensive and takes space away from housing, this decision will have a very significant impact on how much affordable housing is possible at both sites. Similarly, as we describe in more detail below, the exact price that a developer will need to pay to lease BART's land remains unknown. Ultimately, BART will negotiate lease payments with selected developers, and this decision will have a significant impact on the projects' financial feasibility and the need for affordable housing subsidy.

In spite of these unanswered questions, we have enough information at this point to provide the City with appropriate order of magnitude estimates of the subsidy needs. Because the subsidy needs are so high, the City cannot wait until all of these questions are settled before beginning the presumably lengthy process of identifying funding sources for the City's contribution to these projects. We don't know everything, but we know enough for the city to start making plans to secure the funding it will need to take advantage of this outstanding opportunity to generate affordable housing.

## B. Total Subsidy Need

The exact amount of city subsidy needed for each project will depend on the success of the projects' affordable housing developers in securing competitive outside affordable housing subsidies, particularly from the State of California. Because funding limits, funding availability, and rules of state programs are changing constantly, it would not be reliable to project any specific mix of funding for these proposed affordable housing projects years in the future. But regardless of the specific funding programs utilized, each affordable housing program requires some level of local funding from the City of Berkeley.

The projections below assume that 100% affordable projects developed at either BART site will be comparable in terms of design, unit mix, income targets and other characteristics to the other 100% affordable housing projects funded by Berkeley's Housing Trust Fund in recent years. This assumption makes it easier to estimate the need for subsidy without knowing the specifics of projects that have not been proposed yet. Fortunately, this assumption leaves plenty of room for innovation because Berkeley's affordable housing projects are quite different from one another and include many units targeting specific populations. In particular, stakeholders in the BART station community process have expressed support for development of units serving Extremely Low Income (ELI) residents and, at Ashby, for units serving residents with disabilities. While targeting these populations could increase the need for subsidy, Berkeley's recently funded projects have also served these populations.

Data on Berkeley's recent projects (see **Table 1** below) provides some indication of what would likely be possible at the BART Stations but it is important to understand that because the rules of state and federal housing programs are changing regularly, projects in the future may need to look somewhat different in order to be competitive for these funds.

Table 1: Recent City Funded Projects

Project Name	Placed in Service	Units	Affordability
Amistad House	2011	60	59 units affordable to 30-60% AMI households
Harmon Gardens	2011	16	15 units affordable to 30-50% AMI households
Harper Crossing	2017	42	41 units affordable to 30-60% AMI households
Grayson Apartments	2019	23	22 units affordable at 30-60% AMI households
Jordan Court	Expected 2021	35	34 units affordable to 30-60% AMI households
Berkeley Way Affordable	Expected 2022	89	88 units affordable to <60% AMI households
Berkeley Way Permanent Supportive	Expected 2022	53	53 units affordable to VLI households
Blake Apartments	Expected 2022	63	62 units affordable to 30-60% AMI households
Maudelle Miller Shirek Community Project	Expected 2023	87	86 units affordable to 20-60% AMI households
1740 San Pablo	Future	54	53 units affordable to 30-60% AMI

### C. “Outside” Subsidy

Building new affordable housing in Berkeley currently costs roughly \$700,000 per unit on average. The vast majority of that funding will come from private lenders and state and federal government affordable housing subsidy programs. The specific mix of outside funding will vary from project to project, but the most likely sources for projects at the two BART stations include federal resources such as the Low Income Housing Tax Credit and Tax Exempt Bond financing as well as state subsidy programs like the Affordable Housing and Sustainable Communities (AHSC) program, the Multi-family Housing Program (MPH), and the Infill Infrastructure Grant Program (IIG) among many others.

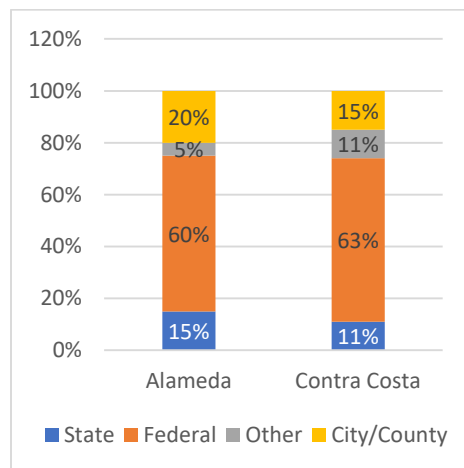
While the overall amount of state and federal affordable housing funding has been declining, the two BART stations are very well positioned to compete successfully for these outside resources. As we describe below, there is a limit to the amount of funding that can be secured in any given year which will require phasing the development of affordable projects over multiple years, but we anticipate that these project would be strongly positioned to raise state and federal funding if local resources are committed. The level of local commitment is often a criterion for award of state and federal funding.

Without sufficient local funding, it is unlikely that a developer could raise enough state and federal funding to build the projects as the scale anticipated below.

#### D. Local Subsidy Need

In a 2017 [report](#), Strategic Economics compiled data on the financing sources for 46 Bay Area affordable housing projects completed between 2013 and 2016. They found that Federal programs (primarily the Low Income Housing Tax Credit and Tax Exempt Bond programs) provided 60% of the cost of the typical affordable housing project in Alameda County. State and other outside programs provided an additional 20% of the typical project's cost. Local funding from cities and the county accounted for just 20% of the total cost. Figure 1 shows that this distribution was slightly different in Contra Costa where jurisdictions provided less subsidy which required developers to find additional non-governmental subsidies.

Figure 1: Sources of Subsidy



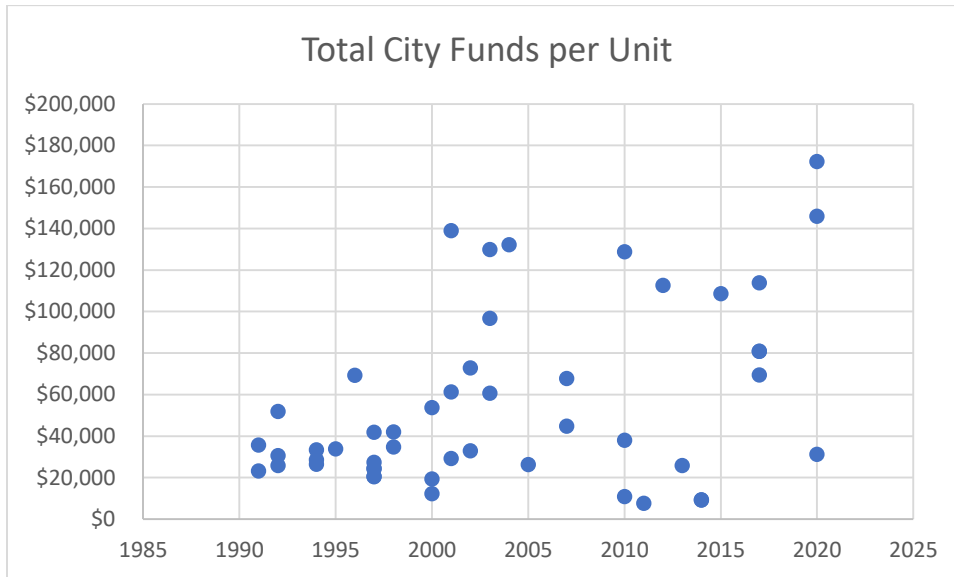
Source: Strategic Economics

In 2017, Strategic Economics found that the typical Alameda County project received \$145,000 in local subsidies including funding from cities and counties. These local funds came from the localities' housing trust funds, affordable housing bonds, affordable/inclusionary housing mitigation fees, and the discounted sale of public land. Since 2017, the cost of building has continued to increase rapidly and, as a result, the level of local subsidy needed to support an affordable housing project has certainly increased.

#### Berkeley's Recent Experience

Berkeley's per unit contribution to affordable projects has been rising rapidly. Figure 2 shows that projects funded by the City's Housing Trust Fund as recently as the early 2000s regularly received less than \$50,000 per unit. Projects funded between 2017 and 2020 received an average of about \$110,000. In 2020, the four projects that secured Measure O and Measure U1 funding received an average of \$183,000 per unit funded. City staff are anticipating a need for \$200,000 per unit in city funds going forward.

Figure 2: Berkeley's Investment Per Unit



Source: City of Berkeley, Health, Housing, and Community Services Department, Affordable Housing Inventory Data

Table 2: Selected City Funded Projects, 2010 - 2020

Project Name	Units	City Subsidy	City Subsidy per Unit
Amistad House	60	\$650,000	\$10,833
Harmon Gardens	16	\$1,111,000	\$69,438
Harper Crossing	42	\$2,107,303	\$50,174
Grayson Apartments	23	\$2,495,000	\$108,478
Jordan Court	35	\$6,026,927	\$172,198
Berkeley Way Affordable	89	\$2,774,925	\$31,179
Berkeley Way Permanent Supportive	53	\$7,727,630	\$145,804
Blake Apartments	63	\$11,500,000	\$182,540
Maudelle Miller Shirek Community Project	87	\$17,000,000	\$195,402
1740 San Pablo	54	\$7,500,000	\$138,889

Source: City of Berkeley, Health, Housing, and Community Services Department, Affordable Housing Inventory Data



Table 3: Selected Oakland Projects

Project Name	Units	City Subsidy	City Subsidy per Unit
285 12th Street	65	\$1,864,500	\$28,685
7th & Campbell	79	\$801,900	\$10,151
95th & International	55	\$6,859,659	\$124,885
Aurora Apartments	44	\$2,600,000	\$59,091
Brooklyn Basin: Project 3	130	\$12,442,000	\$95,708
Brooklyn Basin: Project 4	124	\$17,333,000	\$139,782
Friendship Senior Housing	50	\$6,350,000	\$127,000
Fruitvale Transit Village II-B	181	\$9,579,000	\$52,923
Nova Apartments	19	\$1,600,000	\$27,119
The Phoenix	101	\$4,350,000	\$43,069
West Grand & Brush Phase I	59	\$1,700,000	\$28,814

Source: [City of Oakland, Department of Housing and Community Development, Housing Development Division, Affordable Housing Pipeline Projects](#)

### Oakland

For context, the City of Oakland funded 11 affordable housing projects from 2019 to 2020 (see **Table 3** below). The commitments ranged from \$10,000 to \$140,000 in city funding per unit. The average city subsidy was \$67,000 per unit. The lower dollar amount of some requests may have been because many of these projects were also relying on additional funding from Alameda County Measure A1, which will be discussed in more detail later in this section.

### Rest of Alameda County

Street Level Advisors reviewed approved California Tax Credit Allocation Committee applications from 2017 to 2019 and found that affordable East Bay projects, excluding projects in Oakland and Berkeley, received an average of \$208,000 in local funding per housing unit. One project in Concord did not get any local funding and one project in Pleasanton received \$437,000 per unit. Removing these outliers, the average per unit local subsidy fell to \$183,000 (see **Table 4** below).

Table 4: Selected Alameda County Projects

Project Name	Application Year	Units	Total Local Subsidy	City + County Subsidy/Unit
Alameda Point Senior	2018	60	\$11,834,149	\$197,236
Chestnut Square Family Housing	2018	42	\$13,241,757	\$315,280
Clayton Villa Apartments	2018	80	\$0	\$0
City Center Apartments	2019	60	\$14,302,321	\$238,372
Parrott Street Apartments	2019	62	\$6,466,259	\$104,295
St. Paul's Commons	2017	45	\$7,467,642	\$165,948
Stevenson Place Apartments	2017	80	\$13,638,890	\$170,486
Sunflower Hill at Irby Ranch	2018	31	\$13,559,273	\$437,396
Warm Springs TOD Village Affordable #1	2018	71	\$16,561,681	\$233,263
Warm Springs TOD Village Affordable #2	2018	61	\$13,713,063	\$224,804

Source: [California Tax Credit Allocation Committee, Application Information](#)

#### Contribution Assumption

In order to develop a reasonable estimate of the optimal level of city contribution in various scenarios, we have assumed that projects developed in the next 3-5 years will require \$200,000 in local funding per affordable housing unit. It is entirely possible that a developer could successfully complete a project with significantly less local subsidy per unit. (Of course, it is also possible that more would prove necessary for certain kinds of projects.) But an important point to keep in mind is that the level of this local subsidy is critical to the speed with which the affordable housing is developed. With lower levels of local subsidy, the developer must assemble funding from more competitive sources. Each source requires time to apply and often projects with too little local subsidy end up waiting years as the subsidy gap funds are secured step by step. Budgeting sufficient subsidies from the City of Berkeley is essential to making these projects happen quickly.

#### Subsidy needed to meet 35% minimum requirement

Using the \$200,000 per unit estimate, Street Level Advisors evaluated the range of total need for different potential BART projects. The Memorandum of Understanding (MOU) between BART and the City of Berkeley sets a minimum target of at least 35% affordable housing at each station.

**Table 5:** shows an estimate for the local subsidy needed for the number of housing units that could be included based on different conceptual development scenarios that used buildings ranging from five to eight stories.

Table 5: Estimate of Total Local Subsidy Needed – 35% affordable

	5 Stories	6 Stories	7 Stories	8 Stories
<b>Total Units</b>				
Ashby	575	700	850	975
North Berkeley	540	650	775	900
<b>Affordable Units</b>				
Ashby	35%	201	245	298
North Berkeley	35%	189	228	271
<b>Total Local Subsidy @ \$200,000/unit</b>				
Ashby	40,200,000	49,000,000	59,600,000	68,200,000
North Berkeley	37,800,000	45,600,000	54,200,000	63,000,000
<b>Total</b>	<b>78,000,000</b>	<b>94,600,000</b>	<b>113,800,000</b>	<b>131,200,000</b>

The numbers in **Table 5** represent the total amount of local subsidy. We anticipate that this local contribution would come from three distinct sources:

1. Internal subsidy from market rate development at the BART sites
2. Discounted land from BART
3. Cash subsidy from the City of Berkeley (Housing Trust Fund, Measure O, other potential City funds)

It is worth noting two other potential sources for the 'local' share of future projects.

- Alameda County voters approved Measure A1 which is providing \$460 million for affordable rental housing development. We anticipate that Measure A1 funds will be fully committed before these BART projects are built. But given the high need for affordable housing throughout the county, it is possible that Alameda County could seek approval for another similar housing bond in the coming years.
- State legislation created the Bay Area Housing Finance Authority (BAHFA) in order to address regional housing needs. BAHFA has been designed with the goal of later securing voter approval for a regional affordable housing bond.

If voters approve a regional or another county housing bond, the BART sites would be logical recipients of such funding which would reduce the need for funding directly from the City of Berkeley. However, given that the availability of future county and regional housing funds is uncertain at this time, we assume that the local cash subsidy would need to come entirely from the City of Berkeley and BART.

## E. Inflation assumptions

We would expect the subsidy need to increase at least at the rate of inflation each year. The exact amount of city subsidy will depend on how long it takes before projects are approved. We have assumed that projects would be seeking funding prior to 2028. If, however, the process is delayed or extended to include many phases as described below, an additional adjustment for inflation would be necessary which would result in slight increases in the estimated subsidy amounts.

## III. “Internal” Subsidy in Mixed Use Projects

Because of the high demand for housing throughout the Bay Area, it is likely that new market rate housing units at either BART station would command relatively high rents. BART and the City, as well as many neighborhood stakeholders, have expressed a commitment to prioritizing the provision of affordable housing. Rather than allowing high rents to increase developer profits or increase the value of BART land, the shared intention is to recapture much of the value created through market rate housing to create more affordable housing.

### How would market rate units support affordable housing?

“Value capture” for affordable housing can be achieved in two ways:

- **Mixed Income Buildings:** Often public agencies require residential builders to include a percentage of units within each building which are rented at below market rate rents to income qualified residents.
- **100% Affordable Buildings:** Another strategy for larger sites like the two BART stations, is to set aside portions of the site for the development of 100% affordable housing developments, typically built and managed by nonprofit affordable housing developers.

There are advantages and disadvantages to each strategy. Some people feel that incorporating affordable units into each and every building is the only way to achieve economic integration. There has been quite a lot of social science research on this point and the consensus of researchers seems to be that integration of affordable units into the same neighborhoods where market rate housing is being provided makes a big difference in the health and economic wellbeing of affordable housing residents. Neighborhood integration matters. But there has been virtually no research which would suggest that low-income residents derive additional benefit from integration in the same building with higher income neighbors.

Affordable housing developments offer some significant advantages as well. Publicly funded affordable housing buildings usually serve households at lower income levels than mixed income buildings. In Berkeley, mixed income buildings that comply with the Housing Mitigation Fee Ordinance must include affordable units with half of those units serving households earning 50% of AMI and half serving 80% of AMI. On the other hand, affordable housing developments which are funded by the City’s Housing Trust

Fund generally serve households earning less than 50% of AMI with many units targeting below 30%. Further, affordable housing buildings often have family-serving amenities like playgrounds, and they frequently offer on-site social services. And importantly, in this case, because of the availability of state and federal affordable housing subsidy programs, it is possible to provide many more affordable housing units when they are clustered into 100% affordable developments. These programs are only available to affordable housing projects with close to 100% restricted units.

#### **What do Berkeley tenants prefer?**

Berkeley has some real information about what local affordable housing residents themselves think about this choice. In 2012, Cal students Beth Gerstein and Gimin Shon surveyed more than 500 Berkeley affordable housing residents. They found that residents of 100% affordable housing buildings reported the same level of satisfaction as residents living in Below Market Rate (BMR) units within market rate buildings. Roughly 90% of residents were happy with both situations and they listed the same reasons for their satisfaction including their proximity to good transportation, grocery stores, schools and events. But they found a big difference in the social experience of residents between the two building types. Most (53%) of the low-income residents in mixed income buildings reported that they did not know any of their neighbors while this was true for only 15% of the residents in 100% affordable housing buildings. And even people who knew their neighbors reported much less interaction with them. In mixed income buildings, 63% of residents did not speak to a neighbor at least once per week. In the 100% affordable buildings only 24% spoke to neighbors less than once per week.

Because of the potential to significantly increase the number of affordable units and the lack of evidence that clustering affordable housing units on a site reduces the benefits to residents, Street Level Advisors has assumed that affordable housing units on each site would be provided within publicly funded 100% affordable housing buildings. In scenarios where market rate housing is included, we have assumed that the market rate developer would make a financial contribution to support, or cross-subsidize, the development of the affordable housing units. We assume that the amount of this contribution would be negotiated by BART and the City prior to approving any market rate development and that affordable units would be constructed either concurrently or prior to development of market rate units.

#### **Why do we need to talk about 'feasibility?'**

Some Berkeley stakeholders have raised concerns about the term 'feasibility.' When we talk about what is and is not financially 'feasible' particularly for market rate real estate developers, it can sound like the goal of public policy is to ensure that development remains profitable. The City has no obligation to ensure profits for private builders. But in order to maximize the expected contribution to affordable housing, it is important to understand how profitable projects are. Projects as "feasible" if they can generate the minimum level of profit (after providing affordable units or fees) that allows a project developer to access

private financing on common terms. The purpose of this analysis is to maximize the extent to which these sites can be used to meet the City's dire need for affordable housing including housing for the very lowest income residents.

In order to do that job effectively, however, we have to make certain predictions about how private developers will behave under different conditions. Housing development can be very profitable, and when we require market rate housing projects to contribute to affordable housing we are essentially capturing a share of that profit for community benefit. But there is a limit to how much we can capture. If you imagine the affordable housing requirement as if it were a dial, as we turn the dial up, we get more affordable units. However, at a certain point turning the dial further results in fewer affordable housing units – or none at all. That is the point of 'feasibility.' Most for-profit developers would prefer not to contribute to affordable housing because it reduces their profits. But when we require more than is feasible, they simply *can't* contribute more, whether or not they want to.

The reason to focus on this minimum level of profit, or "feasibility cutoff point" is not to protect the developer's interest. The reason is to maximize the public benefit by capturing the most that we can for the community's goals.

#### A. Market Rate Housing's Potential to Support Affordable Housing

In order to evaluate the potential for market rate developments at these sites to support the provision of affordable housing, we conducted a pro forma analysis to test the feasibility of various levels of contribution. We focused on the economics of rental housing developments with wood frame construction over a concrete podium. Using the results of a 'test fit' analysis conducted by Van Meter Williams Pollack (VMWP), we evaluated the feasibility of several different densities of development at each site.

The detailed assumptions we used and the detailed results from this feasibility analysis are presented in Appendix A. While the exercise yielded many helpful insights, its value to the task of budgeting for affordable housing was limited because we found that market rate housing was infeasible at both sites under current market conditions. The COVID-19 pandemic has introduced considerable uncertainty in the housing market.

Using our best estimates for the rents, construction costs and other factors in the market today, none of the prototypes we studied are currently feasible. In order for these projects to generate the minimum level of profitability required for a developer to secure institutional investment, either rents would need to rise or construction costs would need to fall (or both).

However, our interviews with developers strongly supported the view that over the next few years it was likely that these sites would become feasible again.

Thus, while we can predict that the projects will be financially feasible and capable of contributing to affordable housing, the current conditions make it impossible to evaluate the feasibility of any given level of financial support for affordable housing.

In order to estimate the level of City subsidy needed, Street Level Advisors has assumed that market rate or mixed income projects will not happen on either site until the point where a market rate project could feasibly afford to make a contribution to affordable housing at least equivalent to the City of Berkeley’s current Affordable Housing Mitigation Fee (AHMF). The City currently charges \$39,746 per unit of market rate housing built.

To be clear, there is no magic to this specific fee level. Today, most potential projects would not be able to pay this fee and generate the level of return needed to attract investment. Over time, as market conditions change, the level of fee that can be paid will increase and may eventually exceed the level of the current AHMF. Street Level Advisors’ recommendation is that the City and BART conduct a feasibility analysis **at the time** of any specific development proposal and negotiate a contribution which maximizes the resources for affordable housing based on conditions at the time. Street Level Advisors’ assumption, however, is that the contribution would not be LOWER than the level of the current AHMF – simply because it would be politically challenging to require less from development on BART land than the City requires from other private projects throughout the city. In a strong market, it is likely that the City could require MORE than the AHMF but since we don’t know how strong the market will be at that time, we can’t forecast any particular level of contribution beyond the AHMF.

Using this simplified assumption, **Table 6** shows the minimum affordable housing contribution for various development scenarios at each station. Increasing the density (# of units) increases the dollar amount of this internal affordable housing contribution significantly.

Table 6: Potential Minimum Developer Contribution for Affordable Housing – 35% Affordable

		5 Stories	6 Stories	7 Stories	8 Stories
<b>Total Units</b>					
Ashby		575	700	850	975
North Berkeley		540	650	775	900
<b>Affordable Units</b>					
Ashby	35%	201	245	298	341
North Berkeley	35%	189	228	271	315
<b>Contribution from Market Rate Units</b>					
Ashby		14,865,004	18,084,430	21,939,792	25,198,964
North Berkeley		13,950,846	16,772,812	20,031,984	23,251,410
		<b>28,815,850</b>	<b>34,857,242</b>	<b>41,971,776</b>	<b>48,450,374</b>

**Table 6** shows this potential developer contribution for projects with a minimum of 35% affordable housing. If the affordable housing requirements are set higher than 35%, as described below, the amount of funding available through this kind of internal subsidy would fall because projects with more affordable units will have fewer market rate units contributing to the fee.

#### IV. Contribution of BART's Land Value Discount

BART leases its land rather than selling it. This means that the owner of a residential building on BART land, whether affordable or market rate, will pay a ground rent to BART. In general, the rent amount is determined based on the estimated market value of the land underlying the project. A key goal for BART in undertaking transit-oriented development is continuously generating revenue to support transit operations through ground rents as well as increased ridership.

For projects that include high levels of affordable housing, BART will discount the standard ground rent. BART's Transit-Oriented Development [Policy](#) requires at least 20% affordable housing in all projects and aims for much higher percentages when possible to achieve a portfolio-wide average affordability of 35%. BART will provide a land value discount to projects where at least 35% of units are affordable. More specifically, projects with affordable units serving households earning 46-60% of the Area Median Income on average, BART will reduce the land price by up to 30%. For supportive housing projects, or those serving households earning 45% of AMI or less on average, BART will discount land even further – up to 60% below the market value.

The determination of the market value of BART-owned land at each site will have a significant impact on feasibility of any project. To date, no appraisal or detailed estimate of the value of this land has been completed. For the purpose of estimation, we have assumed a market land value of \$3 to \$5 million per acre for each site. For comparison, the land values used in recent transactions for multi-family development sites in downtown Berkeley exceeded \$5 million per acre. But the significant and largely unknown costs related to infrastructure and open space at the BART sites will likely result in lower land values than we have seen at other sites.

For the purpose of estimating the necessary City subsidy, Street Level Advisors has assumed that BART's land value discount is calculated for the whole site but provided as a subsidy to the affordable project only, i.e. the market rate project would pay full value for land and receive a cash affordable housing contribution while the affordable project would receive both the land discount from BART and the developer's cash contribution. For an affordable project occupying 35% of the land area, a 30% discount on the value of the whole site results in an 86% discount on the land cost for the affordable parcel.



Table 7: BART Land Discount Example

	Ashby	North Berkeley
Land Cost Per Acre (Assumption)	\$ 5,000,000	\$ 5,000,000
Acres	\$ 6.1	\$ 6.6
Total Value	\$ 30,500,000	\$ 33,000,000
30% Discount	\$ 9,150,000	\$ 9,900,000
Land Value for affordable portion (35%)	\$ 10,675,000	\$ 11,550,000
Less Discount	\$ 9,150,000	\$ 9,900,000
Net land cost to affordable project	\$ 1,525,000	\$ 1,650,000

## V. Remaining Local Subsidy Needed to Achieve 35% Affordable Housing at Each Site

The MOU between the City and BART calls for the City to calculate and commit the necessary funding to subsidize affordable housing at each site equal to 35% of the housing units at each site.

### **Exceeding** 35% Affordable Housing

#### A. City Subsidy Estimates for Higher Levels of Affordable Housing

While the City-BART MOU requires the City to set-aside funds for a minimum of at least 35% affordable housing at both sites, many stakeholders have expressed a strong interest in exceeding that minimum, at the Ashby station in particular. The Adeline Corridor Specific Plan calls on the City to “strive to achieve 100% affordable housing” at the Ashby BART station. The Community Advisory Group for this process has been Table 8 shows the funding needed for development at a scale estimated using a 7-story project at each site. The calculations to arrive at the funding needed for the 7-story projects and other building heights are included in **Table 9** below. For example, a 7-story project at North Berkeley station could include a total of 775 units. To make 35% of those units affordable would require approximately \$54,200,000 in local funding.

But the City does not need to directly fund that full amount. Street Level Advisors assumed that at least \$20 million could be contributed by the market rate project(s) that comprise the remaining 65% of the units at the site and an additional \$9 million would be provided by BART in the form of reduced land cost. The net result is that the City would need to provide approximately \$25 million in additional subsidies in order to achieve 35% affordability at North Berkeley. Table 9 shows the comparable calculations for buildings of different heights at each station.

## VI. Exceeding 35% Affordable Housing

### A. City Subsidy Estimates for Higher Levels of Affordable Housing

While the City-BART MOU requires the City to set-aside funds for a minimum of at least 35% affordable housing at both sites, many stakeholders have expressed a strong interest in exceeding that minimum, at the Ashby station in particular. The Adeline Corridor Specific Plan calls on the City to “strive to achieve 100% affordable housing” at the Ashby BART station. The Community Advisory Group for this process has been

*Table 8: Estimated Gap Funding - 7 Story Projects - 35% Affordable*

	<b>Ashby</b>	<b>North Berkeley</b>
Total Units - 7 stories	850	775
Affordable Units %	35%	35%
<b>Affordable Units #</b>	<b>298</b>	<b>271</b>
Total Subsidy @ \$200,000/unit	\$ 59,600,000	\$ 54,200,000
- Contribution from Market Rate Units	21,939,792	20,031,984
- BART Land Value Discount	9,900,000	9,150,000
<b>= Gap to be Funded by City</b>	<b>\$ 27,760,208</b>	<b>\$ 25,018,016</b>

*Table 9: Estimated Local Funding Gap – Various Levels of Projected Development - 35% Affordable*

	5 Stories	6 Stories	7 Stories	8 Stories
<b>Total Units</b>				
Ashby	575	700	850	975
North Berkeley	540	650	775	900
<b>Affordable Units</b>				
Ashby	35%	201	245	298
North Berkeley	35%	189	228	271
<b>Total Local Subsidy @ \$200,000/unit</b>				
Ashby	40,200,000	49,000,000	59,600,000	68,200,000
North Berkeley	37,800,000	45,600,000	54,200,000	63,000,000
<b>Total</b>	<b>78,000,000</b>	<b>94,600,000</b>	<b>113,800,000</b>	<b>131,200,000</b>
<b>Contribution from Market Rate Units</b>				
Ashby	14,865,004	18,084,430	21,939,792	25,198,964
North Berkeley	13,950,846	16,772,812	20,031,984	23,251,410
	<b>28,815,850</b>	<b>34,857,242</b>	<b>41,971,776</b>	<b>48,450,374</b>
<b>Land Discount Assumption</b>				
	Acres	Value Per Acre	Market Value	30% Discount
<b>Ashby</b>	6.6	5,000,000	33,000,000	9,900,000
<b>North Berkeley</b>	6.1	5,000,000	30,500,000	9,150,000
<b>Net - Gap to be funded by City</b>				
Ashby		15,434,996	21,015,570	27,760,208
North Berkeley		14,699,154	19,677,188	25,018,016
<b>Total - Funding needed from City</b>		<b>30,134,150</b>	<b>40,692,758</b>	<b>52,778,224</b>

discussing specific proposals for the Joint Vision and Priorities document to be adopted along with the zoning regulations. The current draft language in that document calls for a minimum of 35% or 225 units of affordable housing at North Berkeley and 50% or 400 units at Ashby.<sup>1</sup> Phasing Assumptions

One of the key factors influencing the feasibility of projects with very large numbers of affordable housing units will be the need for phasing. All of the significant affordable housing funding sources are awarded through competitive, periodic application processes which have the effect of limiting the amount of subsidy that is generally awarded to a single project. Larger projects require larger allocations of Low-Income

<sup>1</sup> The Draft City – BART Joint Vision and Priorities document is the process of being developed and will go through additional review and comment by the City’s BART Community Advisory Group (CAG) and the broader community. A working (partial) draft presented to the CAG for comment on 12/18/20 is available on the project webpage: [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Land\\_Use\\_Division/2020\\_12-18\\_WORKING\\_DRAFT\\_Joint%20Vision%20and%20Priorities\\_HOUSING%20and%20CIVIC%20SPACE.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Land_Use_Division/2020_12-18_WORKING_DRAFT_Joint%20Vision%20and%20Priorities_HOUSING%20and%20CIVIC%20SPACE.pdf)

Housing Tax Credits and larger loans from sources like the State of California. For projects beyond a certain size, the required subsidies exceed the level of subsidy that is available in a single round of funding.

To build a very large number of affordable housing units on a single site, a developer is less likely to quickly develop one massive affordable project than to subdivide the site into multiple parcels and develop a series of smaller affordable projects over time.

Low Income Housing Tax Credit funded projects range in size from around 25 units up to 200 units, but very few projects include more than 150 units.

Table 10 below shows the calculations for the needed subsidy to achieve these minimums. Setting a floor on the number of affordable units significantly increases the City subsidy needed for lower density projects. For lower density projects, achieving the minimum unit numbers requires a higher share of affordable housing. With fewer market rate units to provide internal subsidy, the subsidy needed from the City rises dramatically.

Achieving a higher percentage of affordable housing at Ashby would require a greater City subsidy. Table 11 below shows the subsidy levels needed for 7-story projects with 35% affordable housing at North Berkeley and percentages of up to 100% affordable housing at Ashby.

## B. Phasing Assumptions

One of the key factors influencing the feasibility of projects with very large numbers of affordable housing units will be the need for phasing. All of the significant affordable housing funding sources are awarded through competitive, periodic application processes which have the effect of limiting the amount of subsidy that is generally awarded to a single project. Larger projects require larger allocations of Low-Income Housing Tax Credits and larger loans from sources like the State of California. For projects beyond a certain size, the required subsidies exceed the level of subsidy that is available in a single round of funding.

To build a very large number of affordable housing units on a single site, a developer is less likely to quickly develop one massive affordable project than to subdivide the site into multiple parcels and develop a series of smaller affordable projects over time.

Low Income Housing Tax Credit funded projects range in size from around 25 units up to 200 units, but very few projects include more than 150 units.

Table 10: Example of Minimums included in DRAFT Joint Vision and Priorities Document (12/18/20)

	<b>5 Stories</b>	<b>6 Stories</b>	<b>7 Stories</b>	<b>8 Stories</b>
<b>Total Units</b>				
Ashby	575	700	850	975
North Berkeley	540	650	775	900
<b>Affordable Units</b>	<b>Min %</b>	<b>Min #</b>		
Ashby	50%	400	400	488
North Berkeley	35%	225	225	315
<b>Total Local Subsidy @ \$200,000/unit</b>				
Ashby	80,000,000	80,000,000	85,000,000	97,600,000
North Berkeley	45,000,000	45,600,000	54,200,000	63,000,000
<b>Total</b>	<b>125,000,000</b>	<b>125,600,000</b>	<b>139,200,000</b>	<b>160,600,000</b>
<b>Contribution from Market Rate Units</b>				
Ashby	6,955,550	11,923,800	16,892,050	19,356,302
North Berkeley	12,519,990	16,772,812	20,031,984	23,251,410
	<b>19,475,540</b>	<b>28,696,612</b>	<b>36,924,034</b>	<b>42,607,712</b>
<b>Land Discount Assumption</b>				
	Acres	Value Per Acre	Market Value	30% Discount
<b>Ashby</b>	6.6	5,000,000	33,000,000	9,900,000
<b>North Berkeley</b>	6.1	5,000,000	30,500,000	9,150,000
<b>Net - Gap to be funded by City</b>				
Ashby	63,144,450	58,176,200	58,207,950	68,343,698
North Berkeley	23,330,010	19,677,188	25,018,016	30,598,590
<b>Total - Funding needed from City</b>	<b>86,474,460</b>	<b>77,853,388</b>	<b>83,225,966</b>	<b>98,942,288</b>

Table 11: City Subsidy Needed - 7 Story Buildings

<b>Ashby</b>		<b>North Berkeley</b>		<b>TOTAL</b>
% Affordable	City Cost	% Affordable	City Cost	
35%	27,760,208	35%	\$ 25,018,016	\$ 52,778,224
50%	\$ 58,207,950	35%	\$ 25,018,016	\$ 83,225,966
60%	\$ 78,586,360	35%	\$ 25,018,016	\$ 103,604,376
70%	\$ 98,964,770	35%	\$ 25,018,016	\$ 123,982,786
75%	\$ 109,273,848	35%	\$ 25,018,016	\$ 134,291,864
80%	\$ 119,343,180	35%	\$ 25,018,016	\$ 144,361,196
85%	\$ 129,652,258	35%	\$ 25,018,016	\$ 154,670,274
90%	\$ 139,721,590	35%	\$ 25,018,016	\$ 164,739,606
95%	\$ 150,030,668	35%	\$ 25,018,016	\$ 175,048,684
100%	\$ 160,100,000	35%	\$ 25,018,016	\$ 185,118,016
50%	\$ 58,207,950	50%	\$ 49,967,475	\$ 108,175,425
75%	\$ 109,273,848	75%	\$ 96,418,263	\$ 205,692,111
100%	\$ 160,100,000	100%	\$ 142,869,050	\$ 302,969,050

Note: figures have not been adjusted for inflation.

Nothing prevents two projects in Berkeley or even two projects at the same BART station from securing funding from the same source in the same year. However, since tax credits and other resources are allocated through statewide competitions, there is a limit to how much funding Berkeley should expect to secure in a given period of time. Unfortunately, we don't know what those limits are because there are few good examples of very large sites being set aside for primarily affordable housing. It may be possible for a different Ashby BART project to win the tax credit competition each year for several years in a row, but that scenario seems somewhat unlikely. The affordable housing stakeholders we interviewed all agreed that as the number of affordable units at either station grows, the total time required to secure the necessary outside funding will grow significantly.

### **Brooklyn Basin**

Brooklyn Basin is a larger-scale development on 64 acres of Oakland's waterfront. The project is being developed to include more than 3,000 units of housing in 13 residential buildings including 465 units of affordable housing (15%). While the City selected the Master Developer for the project in 2006, the subsequent economic downturn delayed development and the nonprofit developer, MidPen Housing, was not selected until 2015. MidPen decided to break the required 465 units into four separate projects which they expect to complete over a 7-year period. In 2016, the City allocated \$35 million of its Affordable Housing Bond funds to the projects, and MidPen began work on two projects: a 101-unit family housing project called Paseo Estero, and a 110-unit senior housing project called Vista Estero. Both projects target households earning less than 60% of AMI. Construction has begun on both of these projects, and MidPen has started planning the next phase. In 2020, Oakland approved an additional \$30 million from its housing trust fund for the next two projects. Project 3 is a 130-unit project including 26 units for chronically homeless individuals, 52 units for extremely low-income households and 77 units for households earning less than 60% of AMI. Project 4 will be a 124-unit project with income mix to be determined based on financing availability.

The specific sizes and phasing of either site will depend on a number of factors including the specific populations being served. For the purpose of evaluating the general feasibility of development strategies with very high shares of affordability, however, Street Level Advisors made the following general assumptions:

- Affordable housing at either site would be provided in buildings of 140 units or less.
- Any affordable project would require roughly 5 years for development on average, including planning, design, permitting, securing funding, construction, and initial leasing.; and
- The phases would need to be staggered by at least one and a half years. (Sometimes projects are funded in back to back years or even in the same year and at other times one or more years elapses between successful funding awards.)

Based on these simplifying assumptions, it is possible to project how long it would take to complete the construction of different levels of affordable housing. In order to make a relatively conservative estimate, Street Level Advisors has accounted for both stations together. Even though they may be developed entirely independently of one another, the funding demands of one station will inevitably impact the other if they are developed simultaneously.

Table 12: Affordable Housing Phasing Estimates

**Phasing Scenario**

*Specific phasing cannot be predicted at this stage, this simply provides an example*

Ashby (7 stories)		North Berkeley (7 stories)		Total Units	Phases	Average Size	Minimum Years to completion
%	#	%	#				
35%	298	35%	271	569	5	114	11
50%	425	35%	271	696	6	116	13
75%	638	35%	271	909	7	130	14
100%	850	35%	271	1121	9	125	17

These estimates are intended to provide only a rough sense of the potential timeline. There is no specific reason why projects could not be completed more quickly, but it would not be uncommon for development at this scale to take much longer.

As **Table 12** shows, Street Level Advisors estimates that producing even the minimum expectation of 35% affordable housing at both stations will require funding at least 5 separate projects. Based on the assumption that phases will be staggered by 1.5 years, the 5 phases would not be completed until 11 years after BART selects developers. The first affordable housing residents would likely move into projects at one of these sites about 5 years after developer selection. For the purpose of illustration, Street Level Advisors has assumed developer selection in 2022 though it would not be unusual for the selection process to take longer.

Increasing the share affordable units increases the required timeframes significantly. **Table 12** shows several scenarios discussed with the CAG in which North Berkeley includes 35% affordable housing and Ashby includes a much higher percentage. For example, building 100% affordable at Ashby plus 35% at North Berkeley would require roughly 9 separate phases and at least 17 years.

The timelines suggested by this simplified analysis suggest that it would be difficult to meet BART's goal of completing construction by 2030 under any scenario.

**Projecting the timing of funding commitments**

One potential positive side effect of developing several affordable housing projects over many years is that the City will not need to commit its entire share of subsidy funding at the outset. While the MOU between the City and BART calls for the City to set-aside sufficient funding at this time for 35% affordable housing, phased development can be *funded* in phases. The large number of unknowns regarding the future of these projects



makes it impossible to project the specific timing of these potential projects. However, it seems helpful for the City and BART to have some expectation about when the City will need to commit funding, particularly for scenarios that involve very high shares of affordable housing.

**Table 13** presents one hypothetical scenario for developing both sites with the minimum required 35% affordable housing (assuming development using 7-story buildings). This scenario assumes that developers are selected for both sites by 2022 and that the first projects would be ready for occupancy by 2027. In general, the assumption is that projects would need access to City financing before they start construction at least two years prior to occupancy. In this case, for projects to be ready by 2027, the City funding would need to be available by 2025. This analysis also assumed that two projects could be funded simultaneously in the first year with another funded the following year and remaining phases staggered every other year. The actual timing of phases could be quite different. The table does not include predevelopment financing, though it is likely that a developer would also require a much lower amount of predevelopment funding from the City at an earlier stage.

Table 14 presents an alternative hypothetical scenario with 35% affordable housing at North Berkeley and 75% affordable at Ashby with both sites built to 7 stories.

Table 13: Hypothetical Project Funding Timeline (35% Affordable at Both Sites) – City Subsidy

	2025	2026	2027	2028	2029	2030	2031	2032
Ashby								
Ashby #1			99					
Ashby #2				99				
Ashby #3								99
North Berkeley								
North Berkeley #1			136					
North Berkeley #2						136		
Ashby	9,253,403	9,531,005	-	-	-	10,727,230		
North Berkeley	12,509,008			13,668,931				
Total	21,762,411	9,531,005	-	13,668,931	-	10,727,230	-	-

Table 14: Hypothetical Project Funding Timeline (75% at Ashby/35% at North Berkeley) – City Subsidy

	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
Ashby												
Ashby #1			128									
Ashby #2				128								
Ashby #3								128				
Ashby #4										128		
Ashby #5												128
North Berkeley												
North Berkeley #1			136									
North Berkeley #2												

#### D. Considering Middle Income Restricted Housing

One strategy that could help the projects achieve a higher share of income-restricted housing units without extending the time required for development or dramatically increasing the City subsidy needed would be the inclusion of “middle-income” restricted units.

There is a fairly new state program which enables tax exempt bond financing and property tax exemption for projects serving a mix of incomes from 80% to 150% of Area Median Income. These are higher incomes than what most affordable housing programs serve but this is roughly the income range that includes many of Berkeley’s teachers. While they don’t face the same hardships as lower income residents, it is very hard for people in this income group to find housing that they can afford, and they are almost never eligible for affordable housing programs.

Within this program, these projects are owned by a public authority, created by the state, which would offer the City of Berkeley the right to purchase the projects if they are ever sold in the future. These projects are financed without any private equity which brings the cost down. The model has been used to finance the purchase of existing apartment buildings mostly in suburban areas of the state and it has not been tested yet for new construction in a high cost location so it may or may not be possible.

Since this program is relatively new, it would require further exploration before the City could commit to such an approach. There are a number of factors in the finance and development process which could render this approach infeasible for the BART station projects. However, ongoing innovation in this field may present other opportunities to achieve moderate-income housing in the future.

#### E. Working with a Master Developer to Maximize Affordable Housing

There appears to be widespread agreement that the City and BART should attempt to maximize the number and share of affordable housing units at each of these sites. But this raises a critical process question. An aspirational goal such as “maximize affordable housing” is much harder to oversee than a hard and fast percentage. If the goal were simply to achieve 35% affordable housing, BART or the City could simply refuse to approve projects that didn’t meet the mark. But if the goal is to achieve a higher share at one or both sites, approval might require evidence that the selected developer made its “best effort.” Unfortunately, a private residential builder may have a fairly strong financial incentive to prefer a project with fewer affordable units – making it difficult, though not impossible, to hold them to a higher standard.

One alternative which the City and BART might jointly explore would be selecting a nonprofit Master Developer or approving a partnership between multiple nonprofits. Frequently, larger development projects like these station sites are developed by a Master Developer who leads the overall planning, builds key infrastructure like streets,

sidewalks and open space but then creates smaller parcels within the overall site and selects other developers to build the buildings on those parcels. Quite often a for-profit builder serves as the Master Developer and they select a nonprofit affordable housing developer to build affordable units on one or more specific parcels. But this relationship can be flipped. A nonprofit organization can serve as the Master Developer and select one or more for-profit developers to build market rate housing on certain parcels (and this has been the case previously at a BART station). While this approach may require building capacity as described below, one clear advantage would be that it would align the Master Developer's interest with the community interest of maximizing affordable housing. A nonprofit developer dedicated to serving households with the greatest need may be more likely to do everything in its power to include as much affordable housing as possible and reach as far down the income ladder as possible. In addition, community members and public officials might be more willing to trust and accept a nonprofit developer if they assert that it is not practical to exceed a certain share of affordable housing.

The obvious obstacle to this approach is that no Berkeley-based organization currently has all of the necessary capacity and experience to act as the Master Developer. Working with a nonprofit master developer will require the City and BART to select a larger regional nonprofit, or to invest in building capacity of the selected local nonprofit(s).

There are several high-capacity nonprofit developers based in Berkeley that probably have the financial and organizational capacity necessary to lead large-scale development at either of the stations, but none have significant experience serving as Master Developer in projects that include market rate housing. This capacity challenge could be addressed by building a team including one or more experienced consultants with private sector experience who would be accountable to the local nonprofit's leadership. Another possibility is that a local nonprofit could enter into a formal joint venture with an experienced larger developer which would give the local nonprofit final authority over certain key decisions but allow the for-profit developer to play a role in managing the project.

Another critical capacity issue, particularly in South Berkeley, is community engagement and voice. The historical and present-day racial equity challenges surrounding the Ashby BART station suggest that the success of any project will depend on ongoing and active leadership from Berkeley's African American community. While all selected developers should be expected to listen to community voices, it would be possible to achieve a qualitatively different level of engagement if a black-led organization with existing community relationships was actively involved in every stage of the development process, especially the process of determining the strategy for maximizing affordable housing. Any Requests For Qualifications (RFQs) for developer selection could either require this kind of partnership, or offer points to teams led by local nonprofit organizations with relevant capacity and/or teams with a well-developed racial equity strategy and commitment.

## Appendix A: Mixed Income Development Proforma Analysis

This appendix provides detailed information about the assumptions that Street Level Advisors used to produce the Financial Feasibility Analysis for the Berkeley BART sites.

### 1. Proposed Building Prototypes



#### 4-Story Apartment Building

- Construction Cost per Gross Foot: \$340 (excluding parking)
- Avg. Rent per Residential Foot: \$4.89
- Average Unit Size: 718 feet
- Parking Ratio: 0.25%
- Unit Mix: 20% Studio, 50% 1BD, 30% 2BD, 0% 3BD
- *Example Projects:* La Vereda, San Leandro; The Overture, Berkeley

#### 5 or 6-Story Apartment Building

- Construction Cost per Gross Foot: \$390 (excluding parking)
- Avg. Rent per Residential Foot: \$5.04
- Average Unit Size: 718 feet
- Unit Mix: 20% Studio, 50% 1BD, 30% 2BD,
- Parking Ratio: 0.25
- Parking Construction Cost per Space: \$60,000
- Ground Floor Commercial (Retail or Office) - \$2.25/foot
- *Example Projects:* Mural, Oakland; The Dwight, Berkeley





### **7 or 8-Story Apartment Building**

- Construction Cost per Gross Foot: \$390 (excluding parking)
- Avg. Rent per Residential Foot: \$5.24
- Average Unit Size: 718 feet
- Unit Mix: 30% Studio, 50% 1BD, 20% 2BD,
- Parking Ratio: 0.25
- Parking Construction Cost per Space: \$60,000
- Ground Floor Commercial (Retail or Office) - \$2.25/foot

*Example Projects:* StoneFire Building, Berkeley

## **2. Parking Structure Prototype**

### **a. Patron Parking Structure**

- Construction Cost: \$60,000 to \$80,000 per Space
- Monthly Rental Revenue per Space: \$150 (\$7 per day)
- BART O&M Cost per Space per Month: \$40

## **3. Open Space Prototype**

### **a. Plaza/Paseo/Market Space**

- Construction Cost: \$500 - \$900 per sq ft
- Annual Operating Cost: \$150,000 to \$200,000 per year
- Operating Revenue - \$0

## **4. Financing Assumptions**

### Market Rate

- Construction Interest Rate: 6%
- Loan to Cost ratio: 80%
- Cap Rate: 4.1%
- Target Yield on Cost: 5.10%

### Low Income Housing Tax Credit

- Applicable Federal Rate (AFR) 4%: 3.07
- Applicable Federal Rate (AFR) 9%: 7.17
- Syndication Rate 4%: 92%
- Syndication Rate 9%: 92%

### Middle Income Restricted

#### *Example: Catalyst Housing*

- 100% debt financed with Governmental Revenue Bonds (no private equity)
- Interest Rate: 4%
- 100% Property Tax Exemption
- Income Restrictions at 80%, 120%, and 150% (average rent 20% below market)
- Rent to Income Ratio: 35%
- Annual Cap on Rent Increases: 4%
- Issuance Fees and Reserve Capitalization: 10% of cost

## **5. Common Project Assumptions**

### *Note: All hard costs above assume a Project Labor Agreement*

- Soft Costs as a % of Hard Costs: 25%
- Rental Vacancy Rate: 4.5%
- Parking Revenue for Rental Properties: \$200 per space per month
- Other Rental Property Revenue (Storage, etc.): \$50 per unit per month
- Rental Operating Costs: 30% of gross rent

**Currently Committed and Potential Requests for City Affordable Housing Funding  
January 2021**

A summary of currently committed City affordable housing funding is provided in **Table 1**. In addition to reserving City affordable housing funds sufficient for 35% affordable housing at the Ashby and North Berkeley BART sites that is included in the City-BART MOU about these stations, other potential requests for funding are summarized in **Table 2**. As noted in the staff report, at the next meeting of the MOBOC and the HAC (anticipated in March), staff will provide additional information and options for the Commissions to consider in order to make a recommendation to Council regarding reserving housing funds.

**Table 1. Currently Committed City Affordable Housing Funding**

<b>Project</b>	<b>Sponsor</b>	<b>Units</b>	<b>Total City Funds Reserved</b>	<b>Projected Sources of Funds</b>	<b>Status</b>
1. 1638 Stuart Street (Small Sites Program)	Bay Area Community Land Trust	8	\$1,653,663	General Fund (U1)	In contract/ Construction
2. 1740 San Pablo Avenue	BRIDGE Housing	60	\$7,500,000	Measure O (1st)	In contract/ Acquisition
3. 2321-2323 10th Street	Northern California Land Trust	8	\$1,620,640	General Funds (U1)	In contract/ Acquisition
4. 2527 San Pablo Avenue	Satellite Affordable Housing Associates (SAHA)	62	\$11,500,000	HTF, Measure O (1st)	Reserved
5. BFHP Hope Center (2012 Berkeley Way)	Berkeley Food & Housing Project (BFHP)/ BRIDGE Housing	44	\$16,964,507	HTF, General Funds (U1), Measure O (1st)	In contract/ Construction
6. BFHP Hope Center PSH (2012 Berkeley Way)	BFHP/ BRIDGE	53	\$7,727,630	Measure O (1st)	In contract/ Construction
7. BRIDGE Berkeley Way (2012 Berkeley Way)	BRIDGE	89	\$2,774,925	Measure O (1st)	In contract/ Construction
8. Jordan Court (1601 Oxford)	SAHA	35	\$6,026,927	HTF (mitigation fees and HOME), Measure O (1st)	In contract/ Construction
9. Maudelle Miller Shirek Community (2001 Ashby)	Resources for Community Development	86	\$17,000,000	Measure O (2nd)	Reserved/ Acquisition

**Table 2. Potential Requests for City Affordable Housing Funding**

<b>Project</b>	<b>Sponsor</b>	<b>Notes</b>
1. St. Paul AME 2024 Ashby Ave.	Community Housing Development Corporation (CHDC)/ St. Paul AME	Has requested predevelopment funds from the City. Projects a future development funding request of \$10.4M.
2. Ephesians 1708 Harmon St.	CHDC/ Ephesians ECOGIC	Has requested predevelopment funds from the City. Projects a future development funding request of \$10.6M.
3. 1740 San Pablo Avenue	BRIDGE Housing	HTF Pipeline project may request additional funds due to changes in the financing plan, including not receiving as many Housing Choice Vouchers as requested
4. People's Park Permanent Supportive Housing	UC Berkeley / Resources for Community Development	Currently in predevelopment; HHCS has not received a funding request
5. 1001-1011 University Avenue	City	City owned site for redevelopment
6. West Berkeley Services Center	City	City owned site for redevelopment; pending zoning study and Council identification of priorities
7. Oregon Park Apartments	Oregon Park Apartments	Privately owned apartment building housing low income seniors; has outstanding housing code violations
8. YMCA Conversion	YMCA	YMCA is exploring converting part of its facility to housing
9. 3404 King Street		Rehabilitation needs.
10. Russell Street Residence	Berkeley Food and Housing Project	Board and Care facility; Owner is marketing rented site for \$7M.
11. Various projects in the HTF portfolio	Various	Some properties have rehabilitation needs that exceed available cash flow.



## 3.7 ASHBY BART

**Future development within the Ashby BART subarea shall provide public space, community-oriented facilities, and affordable housing, consistent with the objectives, parameters, and process outlined in the Adeline Corridor Specific Plan.**

The Ashby BART Station is one of the most prominent landmarks and amenities along the Adeline Corridor, with the potential to support and advance all five key topic areas addressed in this Plan – land use, housing, economic opportunity, transportation, and public space.

As stated in Chapter 2, the Ashby BART subarea is envisioned to be redeveloped as a vibrant neighborhood center with high-density mixed-use development that unifies and knits back together the east and west sides of Adeline Street. The Ashby BART development will be a model for sustainable transit-oriented development, incorporating high levels of affordable housing and complementary commercial and civic uses; public space for community gatherings, special events, and civic celebrations; and green construction.

The Plan lays the groundwork for future engagement with the community and BART by outlining key objectives that apply to future development and describing a process for evaluating development proposals for these sites. Future development in the Ashby BART subarea shall be consistent with the seven objectives below, which shall be incorporated into any future master plan and development agreements with potential developers.

**OBJECTIVE 1. AFFORDABLE HOUSING.** Future development in the Ashby BART subarea shall consist of well-designed, high-quality, transit-oriented development that maximizes the total number of deed-restricted affordable homes, serving a range of income levels (e.g. Extremely Low, Very Low, Low and Moderate) and could also include supportive services or other spaces associated with the affordable



*The Ashby BART Station*

housing and other desired community benefits. The opportunity to leverage public land for a mix of uses, including significant amounts of affordable housing, will help to safeguard the socio-economic and cultural diversity treasured by the community, as well as have correlated benefits of contributing to the neighborhood's economic prosperity and improving health outcomes.

The City and BART should strive for a goal of 100% deed-restricted affordable housing, prioritizing Extremely Low and Very Low affordable housing, that could be accomplished through multiple phases of development. The amount of housing and levels of affordability shall be determined through the process outlined in the Memorandum of Understanding (MOU) unanimously adopted by the City Council and the BART Board of Directors (Dec. 2019 and Jan. 2020, respectively) to work together to develop the Ashby BART and North Berkeley BART station areas. This process will involve community meetings, development of an affordable housing funding plan and additional land use and economic feasibility studies, including analysis of 100% affordable housing, to inform further conversation with the Community Advisory Group (CAG), Planning Commission and broader community (see Objective 7).

**OBJECTIVE 2. PUBLIC SPACE.** Any future development shall include one or more publicly accessible spaces incorporated onto the development parcels within the Ashby BART subarea. The public space could potentially be provided as plazas, green space, pedestrian paseos, rooftop patios, flexible event space, or other pedestrian-accessible spaces that are open to the public. Incorporating elements of "green infrastructure" in these elements is highly encouraged (See Chapter 7).

Future redevelopment of the Ashby BART west parking lot should incorporate a large civic plaza that could be designed and programmed to accommodate the Berkeley Flea Market and potentially a relocated Farmers Market, as well as support the Juneteenth Festival and other

music and entertainment events. This space could include dedicated flexible space on the site and/or in a nearby location such as on Adeline Street. The space should be designed with the general and specific needs of the Flea Market and Farmers Market (if the operators of the Markets are interested), as well as allow flexibility for other programming such as the Juneteenth Festival, music and entertainment, civic events, or other public uses – at different times of the week or in complementary locations. This could include dedicated flexible space on the site or in a nearby location such as on Adeline Street. The City will oppose the relocation of the Flea Market away from the BART parking lot without the consent of the designated representative of the vendors, currently Community Services United. The City is committed to supporting the Berkeley Flea Market as it works with BART to redevelop the Ashby BART subarea through the process outlined in the Memorandum of Understanding adopted by City Council and the BART Board of Directors (Dec. 2019 and Jan. 2020, respectively). This process will include engagement with the Berkeley Flea Market individually and through the Community Advisory Group (CAG), which will include a representative from Flea Market management, currently Community Services United.

**OBJECTIVE 3. ADDITIONAL DEVELOPMENT PARAMETERS.** The following general development parameters will be further refined as implementation steps of this Specific Plan:

**Building Height.** To achieve the affordable housing goal, climate action goals and maximize community benefits from development of public land, high density mixed-use development is envisioned that are generally up to four to seven stories. The City will continue to coordinate with BART as it refines development parameters as part of implementation of Assembly Bill 2923. In general, development fronting on Adeline Street and Ashby Avenue should "step down" or transition to lower heights where development fronts on Martin Luther King Jr. Way, Woolsey, Tremont and Essex Streets.

**Ground-Floor Uses.** As noted in Policy 3.1, the following types of uses shall be required for ground floor uses for the Ashby BART subarea:

- Adeline Street frontage: Ground floor retail or active commercial use required.
- Ashby Avenue frontage: Ground floor commercial use required.
- Martin Luther King Jr. Way: Residential or commercial use allowed on ground floor.
- Tremont, Woolsey and Fairview Streets: Residential or commercial use allowed on ground floor.

**Additional Land Uses.** Additional land uses that would be encouraged in the Ashby BART area include the following:

- Potential space for a new African American Holistic Resource Center (see Chapter 5 for more information)
- Ground floor retail, restaurants and family-oriented entertainment;
- Affordable space for neighborhood non-profits
- Small, affordable workspaces
- Universally-accessible community event and recreation space, or performance venues.

**Construction Phasing.** Future development should minimize construction impacts to the Flea Market and other existing businesses, including extensive outreach and engagement as part of developing potential construction phasing plans.

**OBJECTIVE 4. PUBLIC ART.** Future redevelopment should maximize opportunities to incorporate permanent and/or temporary public art installations that celebrate neighborhood history, cultural heritage and identity (see Chapters 2, 5 and 7 for more information).

## WHAT IS ASSEMBLY BILL (AB) 2923?

Assembly Bill 2923 was signed into law by Governor Jerry Brown on September 30, 2018. AB2923 grants BART the authority to establish transit-oriented development (TOD) zoning standards that apply to its property across the Bay Area, including the North Berkeley and Ashby BART Station sites. The intent of the law is to enable BART to work together with cities to maximize the public benefit of scarce transit-adjacent land (see [www.bart.gov/ab2923](http://www.bart.gov/ab2923) for more information). Although BART has the ultimate authority to establish zoning standards for its property, BART has indicated that it intends to work in close collaboration with local elected officials and community stakeholders. Furthermore, since the City has the option to purchase the “air rights” for the west Ashby BART parking lot, it would have a direct role in approving any future master plan and development agreement for that site, and would work with BART to implement the Objectives described in the Adeline Corridor Specific Plan for any redevelopment of the Ashby BART subarea.

**OBJECTIVE 5. PEDESTRIAN AND BICYCLE CONNECTIONS.** Future development should include pedestrian and bicycle connections that serve users of all abilities and ages. Development of the west parking lot should incorporate the following key bicycle connections at minimum, consistent with the City of Berkeley Bike Plan and as described in the Transportation Chapter of this Plan:

- Connection of the Woolsey/Prince bicycle boulevard facility across the Ashby site
- Provision of an off-street/protected bicycle facility along Adeline Street between Ashby and the intersection with MLK Jr. Way.

**OBJECTIVE 6. PARKING AND TRANSPORTATION DEMAND MANAGEMENT.** Any future development must include aggressive and innovative Transportation Demand Management strategies to reduce demand for parking and single-use automobile trips (See Chapter 6). Consistent with BART Transit-Oriented Design Guidelines and the City's Climate Action Plan, any future mixed-use development shall provide parking at ratio not to exceed 0.5 spaces/residential unit and 1.6 spaces per 1000 sq ft of commercial space. Because Ashby BART Station is considered an Urban with Parking station, BART's Access and TOD policies strive to have little to no BART parking replacement. To offset the loss of parking spaces, future development must incorporate non-auto, multimodal access alternatives to BART patrons.

**OBJECTIVE 7. PROCESS AND ENGAGEMENT.** Because of the importance of the BART site both to the success of the proposed housing strategy and to the overall character of the neighborhood, any development process should include a deliberate and extensive community decision making process. The City will work with BART to complete a planning process which includes a Station Area Advisory Group or similar body comprised primarily of representatives of local stakeholder organizations. This stakeholder group should participate in decisions regarding the site requirements to be included in any Request for Proposals (RFP). In addition, any RFP that is issued for development at the BART site will outline specific requirements that a selected developer continue to invest in proactive community engagement throughout the development process and to identify appropriate additional community benefits as part of the project design process. A development team's proven track record of managing this kind of community engagement/community benefits process will be one criteria for selection. The local community should continue to be closely involved in development of these key public sites. Chapter 4 (Housing Affordability) includes additional information and considerations for future phasing, funding, programming, and affordable housing strategies for the Ashby BART area.

## WHAT ARE "AIR RIGHTS?"

Ownership of land can be divided into rights on the surface, subsurface (i.e. mining or mineral rights) and air rights. The City of Berkeley acquired air rights over both parking lots at Ashby BART Station back in 1966 after the voters approved undergrounding the BART lines. In 1999, the City executed a contract with the Ed Roberts Campus to assign the City's option to the air rights over the eastern Ashby BART parking lot (the current Ed Roberts Campus site and the remainder parking lot behind it), to facilitate development of the Ed Roberts Campus. An agreement between the City and the Ed Roberts Campus in 2008 confirmed that the City assigned the air rights over the eastern BART parking lot to the Ed Roberts Campus, but the City still retained the option over the western BART parking lot. The air rights generally refer to the space starting 10 feet above the average finished grade location.

**North Berkeley BART Development Goals and Objectives**  
(Approved unanimously by the Berkeley City Council on May 9, 2019)

State law (AB 2923, Chiu) passed in 2018 requires the San Francisco Bay Area Rapid Transit District (BART) to develop transit-oriented development (TOD) zoning standards for each BART station, establishing minimum local zoning requirements for height, density, parking, and floor area ratio by July 1, 2020.

Prior to the enactment of AB 2923, the Berkeley City Council initiated a community process to explore the potential for transit-oriented development at the North Berkeley BART station. Creating homes at the North Berkeley BART parking lots will help the City of Berkeley address the shortage of affordable homes; reduce vehicle miles traveled and meet our climate change goals; and improve the livability of the surrounding neighborhood through the creation of green open space, pedestrian and bicycle infrastructure improvements; and possible small-scale community, non-profit, and/or retail uses.

AB 2923 requires local jurisdictions like Berkeley to adopt a local zoning ordinance that conforms to BART TOD zoning standards.

While the Berkeley City Council voted at its May 29, 2018 meeting to oppose AB 2923, the City Council recognizes that we now have an obligation to comply with the law. The Council is seeking to comply as soon as possible with AB 2923 for the purposes of developing the North Berkeley BART station in order to ensure that the community has a meaningful opportunity to engage with BART on how the site is developed.

At the same time, the Berkeley City Council acknowledges the unique neighborhood characteristics of each BART station and expresses its intent to incorporate a station-specific design that is sensitive to the existing single-family (R-1) and two-family (R-2) residential zoning directly adjacent to the North Berkeley BART station.

The City of Berkeley seeks to enter into a Memorandum of Understanding with BART that enumerates, among other terms, the following goals and objectives for development:

**Community Input**

**A Community Advisory Committee shall be created for the purposes of providing input to the City's Planning Commission as it considers City and BART TOD zoning standards.**

**The planning process will engage the community in order to ensure that the site reflects the community's values for equity, sustainability, and sense of place.** In particular, community input should be considered for:

- The number/percentage of affordable housing units and populations to be served, including the possibility of a 100% affordable project

- The size, height, scale, spacing, and setbacks of buildings, and their responsiveness to the neighborhood
- The inclusion of green and open spaces
- The possibility of limited, small-scale community, non-profit, and retail space to serve the immediate neighborhood
- Exploration of whether it's appropriate to include small-scale community, non-profit, and/or retail space to serve the immediate neighborhood, whether any parking should be provided for such uses, and consideration of the tradeoff of foregone housing units
- Access options, including traditional modes such as public transit, taxis and private vehicles, active modes such as biking, walking and scooters, emerging modes such as car share, ride share, driverless cars, etc., and access for the disabled and mobility impaired
- Green and sustainable features

### **Station Access**

**BART, the City of Berkeley, and a future developer(s) will address station access.** Specifically, Section 29010.6(h) of AB 2923 requires BART—in cases in which commuter parking is reduced as a result of a TOD project—to develop and fund an access plan that maintains station access for at least the number of customers affected by the reduced number of commuter parking spaces, with specific consideration for customers who live further than one-half mile from the station. A station access plan for implementation will seek to explore feasible and effective alternatives to individuals driving to and parking at the station, such as reserved parking spaces for carpools and car-share vehicles, ride-share, enhanced bus/shuttle service, additional electric-assist bikes and scooters, among other alternatives. We will also consider limiting or eliminating parking for residential and/or potential community, non-profit, or retail uses in order to maximize parking availability for commuters. We note that the station access plan should take into account the rapid evolution of mobility trends and technologies and consider the adaptability of the plan to future mobility patterns. Further, we intend to conduct a traffic study to help determine the number of parking spaces that are needed at the site, including reserved spaces for people with disabilities.

In light of Berkeley's long tradition of leadership on issues related to the disabled and mobility impaired, access at the North Berkeley BART station should be first in its class, including consideration for access to and from the station itself, within the station, and to and from the BART platform.

All traditional modes should be considered: public transit, taxis, carpools and cars; all active modes including walking, biking and scooters; all emerging modes including car share, ride share, van pools and driverless vehicles; and all modes of accessibility for the disabled.

### **Affordability**

**Maximize the number of affordable below-market-rate units that are available to low-income households of diverse types and sizes, including affordable live/work units for artists.** We seek to exceed BART's 35% system-wide affordability goal by aiming for a high number of affordable

units—to potentially be funded by local, state, and regional funding sources. In order to ensure housing for a range of income levels, we will consider inclusionary below-market-rate units and engagement of an affordable housing developer to develop a fully affordable building.

We will seek to support the creation of local jobs through a project labor agreement for construction of the development.

We will engage in a community dialogue that is positive, productive, and thoughtful in regards to community benefits and financial feasibility.

### **Livability**

**Enhance the livability of the neighborhood surrounding the North Berkeley BART station.** The site should create a visual and physical connection with the neighborhood through its architectural design, height, and scale. In particular, we seek a development that considers the character and context of the neighborhood and steps down in height around the perimeter of the station (with consideration for the varying width of streets around the station) in order to blend in visually and physically with the residential neighborhood. Such a design honors a common theme of many of the designs submitted as part of the October 2018 visioning event. We also seek reasonable spacing between buildings, setbacks, and plantings at the perimeter of the station.

The inclusion of green open space should serve as an amenity that enhances the neighborhood's sense of place.

The streetscape design should strive to minimize neighborhood traffic and congestion impacts and support safe access to the station for bicyclists and pedestrians. Transportation demand management and other best practices should be used to reduce traffic and parking impacts in the surrounding neighborhood.

### **Environmental Sustainability**

**Reflect the City's commitment to reducing our carbon footprint in every possible way.** All buildings should strive to: incorporate all-electric designs, achieve Zero Net Energy, and reduce parking for residents and retail to the maximum extent possible.

To ensure universal access, regardless of age or ability, Universal Design should be considered for all elements of housing and of all other private and public spaces.



## **North Berkeley and Ashby BART Development Parameters Presented to the Community Advisory Group June 8, 2020**

*Following are the minimum requirements for the San Francisco Bay Area Rapid Transit District (BART) to pursue development of its property at North Berkeley and Ashby BART. These requirements are put in place to ensure future development meets BART's Transit-Oriented Development (TOD) Policy goals, supports BART operations, and is compliant with rules and regulations that may be specific to BART.*

### **1. Ridership:**

- a. Project must result in a net increase in BART ridership
- b. Ridership gains preferably at times BART has capacity (outside of peak window)

### **2. Financial Feasibility and Project Delivery:**

- a. Development must be financially and economically feasible
- b. Project to achieve at least 35% affordable housing goal; BART amended its TOD policy in April 2020 to discount land for affordable projects by up to 60% from fair market value.
- c. Project should be able to be completed within 5 years of receiving city planning approvals (assuming healthy economic activity and financial conditions), and by no later than 2030 in order to fall within the 2023-2031 Housing Element planning period.
- d. Offer BART property via long-term ground leases only, to account for operational needs BART may have in the distant future; permit rental housing rather than ownership housing on BART property.

### **3. Infrastructure Costs**

- a. Feasibility analysis should include the cost of new BART infrastructure needed to accommodate project, including:
  - i. Reconfiguration of BART access infrastructure (e.g. pedestrian and bike pathways, bike parking facilities, passenger drop pick up/drop off, transit bays, ADA facilities, wayfinding)
  - ii. Parking replacement capital, operating and maintenance and lifecycle costs
  - iii. Station enhancements and modernization (e.g. new and/or modified vertical circulation, ventilation modifications and faregate modifications)
- b. Feasibility analysis for new development infrastructure that should include cost and viability of other BART infrastructure including:
  - i. Costs (capital, operating & maintenance and expenses) for new public/civic spaces/publicly accessible improvement
  - ii. Costs associated with new internal circulation, lighting, etc.

### **4. BART Operations and Compliance**

- a. Development should not limit or interfere with BART operations including:
  - i. Structural / seismic
  - ii. Clearance around BART structures (e.g. traction power substation)





- iii. Safety/emergency egress
- iv. General Station access and circulation
- v. Station entrances to remain open
- b. Development should factor in transitions in operations such as:
  - i. Police jurisdiction / public safety
  - ii. Station maintenance needs and vehicle access & parking
  - iii. Emergency vehicle access
  - iv. Treasury vehicle schedules and access requirements
- c. Comply with any relevant requirements and policies such as:
  - i. MS4 / Trash Capture/ On-Site stormwater treatment
  - ii. Mandatory BART staff and police parking
  - iii. Title VI/DBE/SBE requirements
  - iv. Competitive contracting
  - v. Project Labor/Stabilization Agreement



City Clerk Department

February 1, 2021

To: Commission Secretaries

From: Mark Numainville, City Clerk

Subject: Temporary Suspension of Certain Provisions of the Commissioners' Manual for Subcommittees

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On January 19, 2021, Council adopted Resolution No. 69,681-N.S., authorizing temporary suspension of provisions of the Commissioners' Manual that require ad hoc subcommittees of City boards and commissions follow State open meeting procedures. Specifically, the creating and posting of agendas, providing for public attendance and comment during subcommittee meetings, and other associated scheduling and noticing requirements is temporarily suspended. This will allow subcommittees to meet and conduct business without support from city staff, thus allowing staff to continue emergency response efforts related to the COVID-19 pandemic.

In response to the emergency proclamation due to the COVID-19 pandemic, staff resources have been directed to the pandemic response. Staff, including commission secretaries, are not able to provide support to boards and commissions at pre-pandemic levels, while also supporting the efforts of the pandemic response and Emergency Operations Center.

At the November 30, 2020, Agenda & Rules Committee meeting, the Committee discussed options for enabling City boards and commissions to conduct work, given the limitations on staff resources. Under the State's open meeting law (also known as the Brown Act), ad hoc subcommittees are not legislative bodies, and are not required to post agendas or allow for public participation.

Agenda posting and public participation requirements for subcommittees are specific to Berkeley and are adopted by resolution in the Commissioners' Manual. The Agenda & Rules Committee requested that city staff introduce an agenda item to the City Council for consideration to temporarily suspend these local noticing and participation requirements for ad hoc subcommittees, and Council approved the recommendation.

Temporary Suspension of Certain Provisions of the Commissioners' Manual that Apply to Meetings of Subcommittees

The other provisions in the Commissioners' manual regarding ad hoc subcommittees remain unchanged. Key points still required for subcommittees include:

- Creation of ad hoc subcommittees and appointments must occur at meetings of the full commission
- Recommendations from the subcommittee must be adopted by the full commission before they are forwarded to Council
- A subcommittee cannot represent the commission before the Council unless it has received permission to do so.
- Composed of less than a quorum of the parent body.
- Composed of only members of the parent body (no members of other commissions or any other persons may be included).
- Have a finite purview established by the parent body.
- Have a set target date to report back to the parent body.
- Must terminate within one year, unless the parent body reviews and extends the timeline.
- Have no regular meeting schedule set by the parent body (all subcommittee meetings are "special meetings").
- Have no alternate commissioner assigned to attend meetings, even as an observer, if his or her presence would create a quorum of the parent body.

Staff resources to support City boards and commissions will continue to be evaluated on a regular basis by the City Manager. Provisions of the Commissioners' Manual that are temporarily suspended may be reinstated at any point by action of the full Council.

Attachments:

1. Council Agenda Report from January 19, 2021: Temporarily Suspending Certain Provisions of the Commissioners' Manual that Apply to Meetings of Subcommittees
2. Resolution No. 69,681-N.S.



Office of the City Manager

CONSENT CALENDAR  
January 19, 2021

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Mark Numainville, City Clerk  
Subject: Temporarily Suspending Certain Provisions of the Commissioners' Manual that Apply to Meetings of Subcommittees

RECOMMENDATION

Adopt a Resolution temporarily suspending the provisions of the Commissioners' Manual and Resolution No. 69,063-N.S. that ad hoc subcommittees of City boards and commissions follow State open meeting procedures, thereby enabling ad hoc subcommittees to meet and conduct work while allowing City staff to continue emergency response efforts related to the COVID-19 pandemic.

FISCAL IMPACTS OF RECOMMENDATION

There are no direct fiscal impacts associated with this recommendation. Temporarily suspending the application of State open meeting procedures to ad hoc subcommittees will decrease the amount of staff time required to coordinate and support the functions of City boards and commissions. This will enable staff that are currently assigned to the COVID-19 pandemic emergency response to continue their assignments and efforts with the City's Emergency Operations Center, and at the same time allow the work of ad hoc subcommittees to resume.

CURRENT SITUATION AND ITS EFFECTS

On March 10, 2020, the City Council ratified the proclamation of the Director of Emergency Services for a state of local emergency related to the COVID-19 pandemic. The emergency proclamation has been renewed several times by the Council, most recently on December 15, 2020, and remains in effect.

In response to the emergency proclamation, staff resources and the resources of City legislative bodies have been directed to the pandemic response. This includes staff assigned as commission secretaries, many of whom are engaged in work with the Emergency Operations Center or are fulfilling new duties related to the impacts of the pandemic. Staff are not able to provide support to boards and commissions at the pre-pandemic level, while also supporting the efforts of the pandemic response and Emergency Operations Center.

At the November 30, 2020 Agenda & Rules Committee meeting, the Committee discussed options for enabling City boards and commissions to conduct work, given the limitations on staff resources. One of the options considered is to temporarily suspend the requirement for ad hoc subcommittees of City boards and commissions to notice their meetings and require public participation. Ad hoc subcommittees are temporary single-purpose advisory committees composed of less than a quorum of the members of a commission or board. Under the State's open meeting law (also known as the Brown Act), ad hoc subcommittees are not legislative bodies, and are not required to post agendas or allow for public participation. These requirements are specific to Berkeley and are adopted by resolution in the Commissioners' Manual.

The Agenda & Rules Committee requested that staff prepare an item for the City Council's consideration to temporarily suspend these local noticing and participation requirements for ad hoc subcommittees. Temporary suspension of these requirements will allow ad hoc subcommittees to meet as needed, and without significant additional staff resources, in order to develop recommendations that will be presented to the full board or commission. Staff resources to support City boards and commissions will continue to be evaluated on a regular basis by the City Manager and the Health Officer in consultation with Department Heads and the City Council. Provisions of the Commissioners' Manual that are temporarily suspended may be reinstated at any point by action of the full Council.

#### BACKGROUND

The Commissioners' Manual is a compilation of state and local laws, and local policies and best practices that apply to City boards and commissions. The Commissioners' Manual is a valuable resource for commissioners, commission secretaries, City staff, and the public, and is provided to new commissioners, new commission secretaries, and is accessible to the public via the City website. The Manual was last updated on September 10, 2019 with Resolution No. 69,063-N.S.

#### ENVIRONMENTAL SUSTAINABILITY

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

#### RATIONALE FOR RECOMMENDATION

At the November 30, 2020 Agenda & Rules Committee meeting, the Committee requested that staff present an item to the full City Council that would allow for the temporary suspension of the local requirement that ad hoc subcommittees of City boards and commissions adhere to State open meeting procedures.

#### ALTERNATIVE ACTIONS CONSIDERED

The City Council could leave the existing provisions in place. Under the existing provisions, if ad hoc subcommittee functions were to resume, staff resources would need to be reallocated in order to fulfill the open meeting requirements in the Commissioners' Manual.

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1: Resolution

## RESOLUTION NO. ##,###-N.S.

TEMPORARILY SUSPENDING CERTAIN PROVISIONS OF THE COMMISSIONERS' MANUAL AND RESOLUTION NO. 69,063-N.S. THAT APPLY TO MEETINGS OF SUBCOMMITTEES

WHEREAS, the Commissioners' Manual is a compilation of state and local laws, and local policies and best practices that apply City boards and commissions; and

WHEREAS, pursuant to the Commissioners' Manual, ad hoc subcommittees of City boards and commissions are required to follow State open meeting procedures, a requirement that is specific to Berkeley and adopted by resolution in the Commissioners' Manual; and

WHEREAS, ad hoc subcommittees are not legislative bodies under the Brown Act and are not required to post agendas or allow for public participation; and

WHEREAS, due to the emergency response to the COVID-19 pandemic, staff resources are not currently available to support the open meeting requirements of the Commissioners' Manual as they pertain to ad hoc subcommittees; and

WHEREAS, the City Council may take formal action to temporarily suspend the provisions of the Commissioners' Manual that pertain to open meeting procedures for ad hoc subcommittee, thereby allowing ad hoc subcommittees to meet without the need for significant additional staff resources.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Council hereby temporarily suspends the provisions of the Commissioners' Manual and Resolution No. 69,063-N.S. that require ad hoc subcommittees of City boards and commissions to follow State open meeting procedures, thereby enabling ad hoc subcommittees to meet and conduct work while allowing City staff to continue emergency response efforts to the COVID-19 pandemic.

RESOLUTION NO. 69,681-N.S.

TEMPORARILY SUSPENDING CERTAIN PROVISIONS OF THE COMMISSIONERS' MANUAL AND RESOLUTION NO. 69,063-N.S. THAT APPLY TO MEETINGS OF SUBCOMMITTEES

WHEREAS, the Commissioners' Manual is a compilation of state and local laws, and local policies and best practices that apply City boards and commissions; and

WHEREAS, pursuant to the Commissioners' Manual, ad hoc subcommittees of City boards and commissions are required to follow State open meeting procedures, a requirement that is specific to Berkeley and adopted by resolution in the Commissioners' Manual; and

WHEREAS, ad hoc subcommittees are not legislative bodies under the Brown Act and are not required to post agendas or allow for public participation; and

WHEREAS, due to the emergency response to the COVID-19 pandemic, staff resources are not currently available to support the open meeting requirements of the Commissioners' Manual as they pertain to ad hoc subcommittees; and

WHEREAS, the City Council may take formal action to temporarily suspend the provisions of the Commissioners' Manual that pertain to open meeting procedures for ad hoc subcommittee, thereby allowing ad hoc subcommittees to meet without the need for significant additional staff resources.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Council hereby temporarily suspends the provisions of the Commissioners' Manual and Resolution No. 69,063-N.S. that require ad hoc subcommittees of City boards and commissions to follow State open meeting procedures, thereby enabling ad hoc subcommittees to meet and conduct work while allowing City staff to continue emergency response efforts to the COVID-19 pandemic.




The foregoing Resolution was adopted by the Berkeley City Council on January 19, 2021 by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.

  
\_\_\_\_\_  
Jesse Arreguin, Mayor

Attest:   
\_\_\_\_\_  
Mark Numainville, City Clerk

**From:** [Housing Advisory Commission](#)  
**Bcc:** [mamaberkeley@gmail.com](mailto:mamaberkeley@gmail.com); [marimendonca71@gmail.com](mailto:marimendonca71@gmail.com); [msargent@lmi.net](mailto:msargent@lmi.net); [xjohn2491@gmail.com](mailto:xjohn2491@gmail.com); [marian\\_wolfe@gmail.com](mailto:marian_wolfe@gmail.com); [ainsleys17@gmail.com](mailto:ainsleys17@gmail.com); [libbyco@gmail.com](mailto:libbyco@gmail.com); [Leah Simon-Weisberg](#)  
**Subject:** FW: COB Feb. 9 , 2021 NOTICE OF VIRTUAL PUBLIC HEARING and OPPORTUNITY TO COMMENT: Consolidated Plan and PY19 Annual Action Plan Amendments  
**Date:** Friday, January 29, 2021 9:56:00 AM  
**Attachments:** [Changes ESGCV Expenditures 012221 \(002\).pdf](#)  
[PublicNotice\\_ConPlanAmendment2\\_PY19AAP2.pdf](#)

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Hello Commissioners,

Please see the message below from HHCS.

Best,

Mike

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**From:** Babka, Rhianna  
**Sent:** Thursday, January 28, 2021 5:11 PM  
**To:** Babka, Rhianna <[RBabka@cityofberkeley.info](mailto:RBabka@cityofberkeley.info)>  
**Subject:** COB Feb. 9 , 2021 NOTICE OF VIRTUAL PUBLIC HEARING and OPPORTUNITY TO COMMENT: Consolidated Plan and PY19 Annual Action Plan Amendments

Dear Key Stakeholders & Community Partners,

This email contains important information regarding opportunities for public comment on the City's expenditure of Housing and Urban Development (HUD) funds. **Please post and/or distribute the attached flyers regarding this virtual public hearing and opportunity to comment.**

**NOTICE OF PUBLIC HEARING  
CITY OF BERKELEY**

**REQUEST FOR COMMENTS ON ITS  
CONSOLIDATED PLAN (2020-2025) AMENDMENT #2 – CARES ACT &  
PY19 (FY20) ANNUAL ACTION PLAN AMENDMENT #2**

The public is invited to review and comment on the City of Berkeley's **1) [Consolidated Plan Substantial Amendment #2](#)** for Housing and Community Development that covers the period July 1, 2020 through June 30, 2025 including the City of Berkeley's FY 2021 Annual Action Plan, which covers the period July 1, 2020 through June 30, 2021, and **2) the [PY19 Annual Action Plan Substantial Amendment #2](#)** covering funds from the period of July 1, 2019 through June 30, 2020. The comment period will conclude at the **February 9, 2021 Public Hearing** in front of City Council.

The Consolidated Plan amendment is to allow the City of Berkeley to receive and administer an additional \$891,121 in Community Development Block Grant coronavirus (CDBG-CV) funding from the US Department of Housing and Urban Development (HUD) made available through the

Coronavirus Aid, Relief, and Economic Security Act (CARES Act).

The PY19 Annual Action Plan amendment is to shift Community Development Block Grant (CDBG) funds from public facilities rehabilitation to housing rehabilitation.

The City of Berkeley will be hosting a **virtual public hearing during a regularly scheduled City Council meeting on Tuesday February 9<sup>th</sup>, 2021, at 6pm** to discuss this amendment. Agenda materials for this item and instructions on how to access this meeting can be found on the [City of Berkeley Council Agenda webpage](#).

### **PROPOSED CHANGES TO ESG-CV EXPENDITURES**

In addition to the Amendments mentioned above, the City is proposing to adjust the Emergency Solutions Grant CARES Act (ESG-CV) expenditure plan, while staying within budget and eligible activities. Proposed changes include a slight decrease in funds for rapid rehousing, increase in funds for emergency shelter and street outreach, and an increase in funds for the HMIS activities. Please refer to the memo (attached and [on the webpage](#)) regarding the proposed ESG-CV for additional information.

Thank you,

Rhianna Babka  
City of Berkeley  
Housing and Community Services  
2180 Milvia Street, 2nd Floor  
Berkeley, CA 94704  
(510) 981-5410 (tel)  
(510) 981-5450 (fax)  
[rbabka@ci.berkeley.ca.us](mailto:rbabka@ci.berkeley.ca.us)

**Please note:** Many City of Berkeley physical offices have limited hours and operations due to COVID-19. Please refer to the [City's website](#) for the most up-to-date information on City services and COVID-19.

**Please note:** As a cost saving measure the City of Berkeley is closed the 2nd Friday of every month. Additional closures may occur. For the latest City Closures and Holidays please check the City of Berkeley Homepage at [www.ci.berkeley.ca.us](http://www.ci.berkeley.ca.us).

**NOTICE OF PUBLIC HEARING  
CITY OF BERKELEY**

**REQUEST FOR COMMENTS ON ITS  
CONSOLIDATED PLAN (2020-2025) AMENDMENT #2 – CARES ACT &  
PY19 (FY20) ANNUAL ACTION PLAN AMENDMENT #2**

Starting on Friday January 8, 2021, the City has opened a 30-day comment period during which the public is invited to review and comment on the City of Berkeley's **1)** Consolidated Plan Substantial Amendment #2 for Housing and Community Development that covers the period July 1, 2020 through June 30, 2025 including the City of Berkeley's FY 2021 Annual Action Plan, which covers the period July 1, 2020 through June 30, 2021, and **2)** the PY19 Annual Action Plan Substantial Amendment #2 covering funds from the period of July 1, 2019 through June 30, 2020. The comment period will conclude at the February 9, 2021 Public Hearing in front of City Council.

The Consolidated Plan amendment is to allow the City of Berkeley to receive and administer an additional \$891,121 in Community Development Block Grant coronavirus (CDBG-CV) funding from the US Department of Housing and Urban Development (HUD) made available through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act).

The PY19 Annual Action Plan amendment is to shift Community Development Block Grant (CDBG) funds from public facilities rehabilitation to housing rehabilitation.

The City of Berkeley, and all jurisdictions receiving certain types of federal funds, are required to submit a Consolidated Plan, Annual Action Plans, and any amendments thereto to HUD. The Consolidated Plan outlines the City's needs and goals in the areas of Housing, Homelessness, Community Development, and Non-Homeless Special Needs, to act as a framework for the use of federal funds in these areas. The City of Berkeley's Annual Action Plan presents the City's plan for funding housing and community services.

The CARES Act funds are available for "eligible activities" meeting the national objective of the CDBG and ESG funding and to be used to prevent, prepare for, and respond to the coronavirus (COVID-19). Eligible CDBG-CV activities include, but are not limited to, public services and public facility improvements that support eligible low-income households in response to COVID-19.

The draft Consolidated Plan Substantial Amendment #2 and PY19 Annual Action Plan Amendment #2 are available for public review on the web at <http://www.cityofberkeley.info/ContentDisplay.aspx?id=12160>.

**All written comments must be sent to both [rbabka@cityofberkeley.info](mailto:rbabka@cityofberkeley.info) AND [CPD\\_COVID-19WaiverSFO@hud.gov](mailto:CPD_COVID-19WaiverSFO@hud.gov) no later than February 9, 2021, at 5:00 p.m.**

For more information only, contact Rhianna Babka (email: [rbabka@cityofberkeley.info](mailto:rbabka@cityofberkeley.info)) at the Health, Housing and Community Services Department 2180 Milvia Street, 2<sup>nd</sup> Floor, Berkeley, 94704.

The hearing will be held on February 9, 2021 at 6:00 pm via videoconference pursuant to Governor's Executive Order N-29-20.

A copy of the agenda material for this hearing will be available on the City Council agenda webpage at

[https://www.cityofberkeley.info/Clerk/City\\_Council/City\\_Council\\_Agenda\\_Index.aspx](https://www.cityofberkeley.info/Clerk/City_Council/City_Council_Agenda_Index.aspx) in advance of the meeting. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

**Published:** January 8, 2021 in the Berkeley Voice

### **Notice in Spanish:**

A partir del viernes, 8 de enero de 2021 y por 30 días la ciudadanía está invitada a revisar y dar comentarios a la 1) Enmienda Substancial # 2 del Plan Consolidado para Vivienda y Desarrollo Comunitario. Este Plan cubre el periodo de trabajo a partir del 1 de julio de 2020 hasta el 30 de junio de 2025 y también incluye el Plan de Acción Anual de la Ciudad de Berkeley que cubre el período a partir del 1 de julio de 2020 hasta el 30 de junio de 2021, y 2) el Plan de Acción Anual Enmienda Substancial #2 que cubre el periodo de trabajo del 1 de julio 2019 hasta el 30 de junio 2020. El periodo para presentar comentarios públicos concluirá el 9 de febrero de 2020 durante la Audiencia Pública ante el Concejo Municipal.

El Plan Consolidado permitirá a la Ciudad de Berkeley recibir y administrar fondos adicionales de la beca de desarrollo comunitario de coronavirus (CDBG-CV) del Departamento de Vivienda y Desarrollo Urbano de los Estados Unidos en la cantidad de \$891,121, estos fondos están disponibles por medio del Acta de Ayuda, Mitigación y Seguridad Económica (CARES Act siglas en inglés).

La Enmienda del Plan de Acción Anual es para mover fondos de Vivienda y Desarrollo Comunitario de rehabilitación de instalaciones públicas a rehabilitación de viviendas.

La Ciudad de Berkeley y todas las jurisdicciones que reciben ciertos tipos de fondos federales tienen como requisito presentar un Plan Consolidado y Planes de Acción Anual y enmiendas del mismo al departamento de Vivienda y Desarrollo Urbano (HUD). El Plan Consolidado enumera las necesidades y metas en las áreas de vivienda, indigencia, desarrollo comunitario y necesidades especiales que sirve como referencia para el uso de fondos federales en estas áreas. El Plan de Acción Anual de la Ciudad de Berkeley presenta la propuesta para financiar servicios comunitarios y de vivienda.

El borrador del Plan Consolidado, enmienda No. 2, y el Plan de Acción Anual Enmienda #2 estarán disponibles en la página electrónica <http://www.cityofberkeley.info/ContentDisplay.aspx?id=12160>.

**Todos los comentarios escritos deben ser enviados a los correos electrónicos de la representante de la Ciudad [rbabka@cityofberkeley.info](mailto:rbabka@cityofberkeley.info) Y a la oficina del CPD [COVID-19WaiverSFO@hud.gov](mailto:COVID-19WaiverSFO@hud.gov). Los comentarios serán recibidos hasta el 9 de febrero del 2021 a las 5:00 pm.**

Para más información sobre este plan y su enmienda favor contactar a Rhianna Babka, (correo electrónico: [rbabka@cityofberkeley.info](mailto:rbabka@cityofberkeley.info)) en el Departamento de Salud, Vivienda y Servicios Comunitarios localizado en la dirección 2180 Calle Milvia, 2do piso, Berkeley, CA 94704.

La audiencia pública se llevará a cabo el 9 de febrero del 2021 a las 6:00 pm virtualmente conforme a la Orden Ejecutiva N-29-20 emitida por el Gobernador Newsom. Copia de la agenda y los materiales que serán discutidos durante la audiencia estarán disponibles en la página electrónica de la ciudad [https://www.cityofberkeley.info/Clerk/City\\_Council/City\\_Council\\_Agenda\\_Index.aspx..](https://www.cityofberkeley.info/Clerk/City_Council/City_Council_Agenda_Index.aspx..) una vez que la agenda sea publicada, incluirá un enlace para conectarse a la videoconferencia usando la tecnología Zoom.

伯克萊市  
公眾視訊聽證會通知  
及  
計劃評論徵求

關於市政府的年度行動之綜合計劃書 ( 2020-2025年 ) 第二輪修正案 – 《CARES法案》  
及2019日曆年 ( 2020財政年度 ) 年度行動計劃第二輪修正案

由星期五, 2021年1月8日開始, 在30天期間, 伯克萊市政府將邀請公眾人士對以下的第二輪修正案加以檢討及評論:

- 1) 伯克萊市政府的年度行動之綜合計劃書的第二輪修正案。本綜合計劃書之修正案包括五個財政年度 (由2020年7月1日至2025年6月30日)。此外, 本计划还包括 市政府2021財政年度 (由2020年7月1日至2021年6月30日) 制定的經費運用計劃。
- 2) 2019日曆年 ( 2020財政年度 ) 年度行動計劃第二輪修正案涵蓋2019年7月1日至2020年6月30日期間的資金。

評論期將於2021年2月9日在市議會前舉行的公開聽證會結束。

以上的第一個專案將允許伯克萊市接收和管理附加社區發展經費之新冠病毒項目（CDBG-CV）-約八十九萬一千美元（\$891,121.00）。以上資金來自美國聯邦政府住房和城市發展部門（HUD）冠狀病毒援助救濟和經濟安全法《CARES法案》。

以上的第二個專案將允許伯克萊市於2019日曆年年度行動計劃修正案是將社區發展區塊贈款（CDBG）資金從公共設施修復轉向住房重建。

伯克利市, 以及任何其他接受此類型聯邦資金的所有司法管轄區, 均需提交年度行動之綜合計劃書于HUD。本綜合計劃概述了伯克萊市在住房, 无家可归, 社区发展和非无家可归的特殊需求领域的需求和目标, 以作为在这些领域使用联邦资金的框架。与此同时伯克利市年度行动计划也介绍了该市为住房和社区服务提供资金的计划。

CARES法案資金可在”符合”CDBG和ESG全國性目標條件的前題下使用於預防, 準備和應對冠狀病毒（COVID-19）之災情。合格的CDBG-CV活動包括, 但不限於, 公共服務和公共設施改善, 以支持符合條件的低收入家庭應對COVID-19。

上述兩個項目的計劃草案可在互聯網上通過

<http://www.cityofberkeley.info/ContentDisplay.aspx?id=12160>進行公開審查。

所有書面意見請通過電子郵件同時郵寄於 [rbabka@cityofberkeley.info](mailto:rbabka@cityofberkeley.info) 和 [CPD\\_COVID-19WaiverSFO@hud.gov](mailto:CPD_COVID-19WaiverSFO@hud.gov)。所有書面評論必須在2020年2月9日下午五時之前收到。

市民如有意諮詢, 請聯絡房屋及社區服務部 Rhianna Babka 小姐, 電郵地址: [rbabka@cityofberkeley.info](mailto:rbabka@cityofberkeley.info)。伯克萊市房屋及社區服務部, 地址: 2180 Milvia St., 2<sup>nd</sup> Floor, Berkeley, CA 94704。

根据加州州長紐森（Gavin Newsom）于二零二零年三月十七日发布的N-29-20行政命令第三條章程, 本次市議會聽證會將僅通過視頻會議將在2021年2月9日下午6:00舉行。

在會議之前, 該聽證會議程材料的副本可在市議會議程網頁上找到:

[https://www.cityofberkeley.info/Clerk/City\\_Council/City\\_Council\\_Agenda\\_Index.aspx](https://www.cityofberkeley.info/Clerk/City_Council/City_Council_Agenda_Index.aspx)。議程材料的副本發布後, 本次會議的議程將包括一個使用Zoom video技術的公眾參與鏈接。

發佈時間: 2021年1月8日, 伯克利之聲



Office of the City Manager

January 22, 2021

From: *Dee* Dee Williams-Ridley, City Manager

Subject: **Proposed Changes to ESG-CV Expenditures**

The City of Berkeley has received \$6,648,603 in Emergency Solutions Grant coronavirus (ESG-CV) funding from the US Department of Housing and Urban Development (HUD) made available through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The proposed spending for the ESG-CV funds was adopted by City Council after a [Public Hearing on September 15, 2020](#). In response to the ever-evolving coronavirus response, the City has identified a need to shift the ESG-CV expenditure plan, while staying within budget and providing eligible activities.

The CARES Act funds are available for “eligible activities” to prevent, prepare for, and respond to the coronavirus (COVID-19). Eligible ESG-CV activities include street outreach, emergency shelter, homelessness prevention, rapid re-housing, Homeless Management Information System (HMIS) and administration. Specific activities using ESG funding under the CARES Act do not require a public comment period under the [City’s Citizen Participation Plan](#) but shall, at minimum, be posted on the City of Berkeley’s website.

The City is proposing to decrease funds for rapid rehousing, increase funds for emergency shelter and street outreach, increase funds for the HMIS activities, and make no changes to the administration of ESG-CV funds. The following table details both the initial and revised expenditure plans:

<b>ELIGIBLE EXPENDITURES</b>	<b>INITIAL Expenditure Plan</b>	<b>REVISED Expenditure Plan</b>
Rapid Rehousing	\$ 2,597,578	\$ 2,591,095
Emergency Shelter and Street Outreach	\$ 3,386,165	\$ 3,380,648
Homeless Management Information System	\$ 0	\$12,000
Administration (7.5%)	\$ 664,860	\$ 664,860
<b>Total</b>	<b>\$ 6,648,603</b>	<b>\$ 6,648,603</b>



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January 22, 2021  
Proposed Changes to ESG-CV Expenditures

At the time of this notice, charges to the revised activities have not yet been incurred by the City, but eligible expenses may be retroactive and reimbursable to contracted agencies as of the beginning of the fiscal year (July 1, 2020) in alignment with the ESG-CV funding as part of the City's Annual Action Plan.

**All written comments must be sent to both [rbabka@cityofberkeley.info](mailto:rbabka@cityofberkeley.info) AND [CPD\\_COVID-19WaiverSFO@hud.gov](mailto:CPD_COVID-19WaiverSFO@hud.gov) no later than February 9, at 5:00 p.m.**

For more information only email or call Rhianna Babka at the Health, Housing and Community Services Department (email [rbabka@cityofberkeley.info](mailto:rbabka@cityofberkeley.info); phone: 510-981-5410).

cc: Lisa Warhuus, PhD, Director, Health, Housing & Community Services Dept.

**From:** taptango  
**To:** [Berkeley Mayor's Office](#); [All Council](#); [City Clerk](#)  
**Cc:** [Housing Advisory Commission](#); [Health, Housing & Community Services](#)  
**Subject:** Fwd: What an incredible sham meeting Mayor Arreguin held today to push TOPA!  
**Date:** Wednesday, January 27, 2021 10:14:36 PM

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**WARNING:** This email originated outside of City of Berkeley.  
**DO NOT CLICK ON** links or attachments unless you trust the sender and know the content is safe.

Begin forwarded message:

**From:** taptango <[taptango@gmail.com](mailto:taptango@gmail.com)>  
**Subject:** **What an incredible sham meeting Mayor Arreguin held today to push TOPA!**  
**Date:** January 27, 2021 at 9:17:51 PM PST  
**To:** [BerkeleyTOPA@gmail.com](mailto:BerkeleyTOPA@gmail.com)

What an incredible sham meeting Mayor Arreguin held today! It was labeled as a "Community Conversation..." but no true community participation was allowed because the legislation the mayor put forth didn't pass the public smell test. The Zoom chat function for public comment was disabled to bypass interactive discussions. Public questions submitted by informed participants went unanswered in favor of soft, planted questions. The mayor promised a robust public input process but killed free speech to hide the many harmful effects of the so-called "Tenant Opportunity" to Purchase Act (TOPA) which serves only to benefits special interests and questionable politicians at the expense of our city staff and our long time as well as homeless residents.

**From:**  
**To:** [Berkeley Mayor's Office](#); [All Council](#); [City Clerk](#); [Health, Housing & Community Services](#); [Housing Advisory Commission](#)  
**Cc:** [BerkeleyTOPA@gmail.com](mailto:BerkeleyTOPA@gmail.com)  
**Subject:** Very disappointed about TOPA meeting on Jan. 27.  
**Date:** Thursday, January 28, 2021 10:07:09 AM

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**WARNING:** This email originated outside of City of Berkeley.  
**DO NOT CLICK ON** links or attachments unless you trust the sender and know the content is safe.

Hello Madam or Sir,

I am a resident in Berkeley.

It was a very bad meeting yesterday because it was not a real public forum hearing meeting. It was just a one way meeting. We only could listen. The host just wanted to forcibly instill their views, and we the local residents lose our freedom of speech.

Don't do this again.

Yours Sincerely  
George