



Office of the City Manager

CONSENT CALENDAR
March 11, 2025

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Scott Gilman, Director, Health, Housing, and Community Services

Subject: Authorize Integration of BUSD Preferences with the City of Berkeley's Housing Preference Policy for BUSD Workforce Housing Project (1701 San Pablo)

RECOMMENDATION

Adopt a Resolution authorizing the Berkeley Unified School District (BUSD) Workforce Housing project (1701 San Pablo / SAHA / Abode) to apply both a set of housing preferences ("BUSD Preferences") (Exhibit A) developed by its Governance Committee and the City of Berkeley's Housing Preference Policy ("City Preferences"), integrated, with the following clarifications:

- Lottery results within BUSD preference tiers each will be re-sorted by applicant's total number of City preference points.
- Lottery results for Non-BUSD employees would also be re-sorted by applicant's total number of City preference points.
- The persons experiencing homelessness preference would be applied within the BUSD preference framework.
- Layering of City preferences onto BUSD preferences will be conditional on implementation feasibility, as determined by the City Manager.
- Prior to finalizing the Tenant Selection and Marketing Plan, the project team would need to submit a Fair Housing Analysis to the City.

FISCAL IMPACTS OF RECOMMENDATION

No impact.

CURRENT SITUATION AND ITS EFFECTS

Satellite Affordable Housing Associates (SAHA) and Abode Communities (Abode) are jointly developing BUSD Workforce Housing, an educator housing project on BUSD-owned land (1701 San Pablo Avenue). The City is entering into a \$26.5M million Housing Trust Fund (HTF) program loan, which makes the project subject to the City's Housing Preference Policy. The project team requested authorization to apply BUSD Preferences ahead of City Preferences.

BUSD consulted with their staff and employee unions to establish the following priorities for the project, which are incorporated into the project's ground lease (see Exhibit A for details):

1. BUSD Full-time Employee Experiencing Homelessness
2. BUSD Part-time Employee Experiencing Homelessness
3. BUSD Full-Time Employee
4. BUSD Part-Time Employee

Since the BUSD Preferences in the ground lease would have priority over the City Preferences in documents recorded against the ground lease, City staff are seeking Council approval to integrate both policies. This approach will allow the project to move forward while maintaining compliance with City policy.

The project must execute the ground lease and record all loan documents by March 17, 2025 to retain its state bond financing. Failure to do so could jeopardize the project's funding and delay its development.

BACKGROUND

On July 11, 2023, City Council unanimously adopted Resolution 70-960 N.S. (Exhibit B) adopting a Housing Preference Policy for affordable units developed with City subsidy and through the Below Market Rate Program. The resolution established an effective date of January 1, 2024, after which date the Housing Preference Policy applies to new affordable housing units created by the City's Housing Trust Fund and Below Market Rate programs. This policy implements Council and community-identified goals to prevent and reverse displacement from Berkeley, as well as addressing historical injustices.

The BUSD Workforce Housing project is a 110-unit affordable housing development that SAHA and Abode will build on BUSD's Berkeley Adult School property. The project will help BUSD employees live in the community they serve. The project would include a mix of 1-, 2-, and 3-bedroom units serving households earning between 30% and 120% of the Area Median Income. The unit mix and affordability levels are based on staff surveys. While BUSD employees would get priority, people who are not BUSD employees will be eligible to apply for housing. SAHA and Abode (through their limited partnership entity, 1701 San Pablo, LP) will enter into a long-term (99-year) ground lease with BUSD. The form of the ground lease was approved by BUSD on February 5, 2025.

The City invested a total of \$26.5M of Measure O bond funds into the educator housing project. On December 14, 2021, City Council passed Resolution 70,134-N.S., reserving \$24.5M for the BUSD Workforce Housing project. Council subsequently passed Resolution 71,549-N.S on October 29, 2024, authorizing an additional \$2M.

In addition to the City's investment in the project, the development team secured an award of 4% tax credits, state bond funding, and California Housing Finance Agency's (CalHFA) Mixed Income Program (MIP) funds. The project is now shovel ready and is projected to close its financing in March, and start construction soon after.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Displacement can lead to long commutes as displaced people continue to return to their community of origin for school, work, faith institutions, healthcare, and/or social networks. A layered set of preferences with BUSD and City of Berkeley preferences can help reduce greenhouse gas (GHG) emissions associated with longer commutes by both ensuring that more BUSD employees live closer to work, and by reducing or reversing displacement of individuals with ongoing ties to Berkeley.

RATIONALE FOR RECOMMENDATION

The City invested a significant amount of Measure O funds into this project. Requiring that BUSD remove its preferences from the ground lease would delay closing due to lease renegotiation and loss of critical funds that make this project feasible. Failure to meet the March 17th closing deadline could result in a loss of bond financing and would likely stall the project.

ALTERNATIVE ACTIONS CONSIDERED

The City could request that BUSD simplify its preferences in order to be more consistent with City policy. BUSD may not be receptive to this option, and at a minimum this would result in a need to renegotiate the ground lease. This would cause the project to miss its March 17th closing deadline, jeopardizing the state bond funds and possibly stalling the project.

Alternatively, the City could choose not to apply its preferences to BUSD employees, and only apply the City Preferences to non-BUSD applicants. Since the intent of the project is to house local educators, and since BUSD employees will get priority placement, there may be limited opportunities to house non-BUSD applicants, and the City Preferences would have a limited impact.

Staff elected to seek Council authorization to layer the two preference policies in order to comply as closely as possible with City policy and Council's anti-displacement goals.

CONTACT PERSON

Jenny Wyant, Senior Community Development Project Coordinator, HHCS, 510-981-5228

Attachments:

1: Resolution

Exhibit A: BUSD Preferences

Exhibit B: Resolution 70, 960-N.S., City Housing Preference Policy

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

AUTHORIZING THE INTEGRATION OF BERKELEY UNIFIED SCHOOL DISTRICT (BUSD) PREFERENCES WITH CITY PREFERENCES FOR THE BUSD WORKFORCE HOUSING PROJECT

WHEREAS, on July 11, 2023, by Resolution 70,960-N.S., City Council approved the adoption of a City Housing Preference Policy (City Preferences) for affordable units developed with City subsidy and through the Below Market Rate (BMR) program; and

WHEREAS, the City Preferences implement City Council and community-identified goals to prevent and reverse displacement from Berkeley, and apply to City-funded affordable housing projects that execute regulatory agreements on or after January 1, 2024; and

WHEREAS, Satellite Affordable Housing Associates (SAHA) and Abode Communities (Abode) are jointly developing an affordable, educator housing project located on property owned by the Berkeley Unified School District (BUSD); and

WHEREAS, City Council approved a \$24.5 million funding reservation for the BUSD Workforce Housing project through the City's Housing Trust Fund (HTF) program on December 14, 2021, by Resolution 70,134-N.S.; and

WHEREAS, on October 29, 2024, by Resolution 71,549-N.S., the City Council approved an additional \$2 million funding reservation for the same project; and

WHEREAS, BUSD and its stakeholders established tiered preferences for BUSD-employed persons (as described in Exhibit A) and incorporated them into their long-term ground lease for the project; and

WHEREAS, City Council authorization is required to allow integration of the BUSD preferences with the City Preferences.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that SAHA and Abode are authorized to apply both the BUSD-established housing preferences and the City Preferences (as described in Exhibit B) to the BUSD Workforce Housing project, in a manner determined by the City Manager, or their designee.

BE IT FURTHER RESOLVED the application of the BUSD and City Preferences shall be subject to the following conditions:

- Lottery results within BUSD preference tiers each will be re-sorted by applicant's total number of City preference points.
- Lottery results for Non-BUSD employees would also be re-sorted by applicant's total number of City preference points.
- The persons experiencing homelessness preference would be applied within the BUSD preference framework.

- Layering of City preferences onto BUSD preferences will be conditional on implementation feasibility, as determined by the City Manager.
- Prior to finalizing the Tenant Selection and Marketing Plan, the project team would need to submit a Fair Housing Analysis to the City.

BE IT FURTHER RESOLVED that the City Manager, or their designee, is hereby authorized to execute all original or amended documents or agreements to effectuate this action; a signed copy of said documents, agreements, and any amendments will be kept on file in the Office of City Clerk.

Exhibits

A: BUSD Preferences

B: Resolution 70, 960-N.S., City Housing Preference Policy

EXHIBIT A

BUSD EMPLOYEE LEASING PREFERENCE

All units at the Project will have a preference for BUSD employees in the following order:

1. BUSD Full-time Employee Experiencing Homelessness – BUSD employee is a minimum .8 FTE and experiencing homelessness
2. BUSD Part-time Employee Experiencing Homelessness -- BUSD employee is a minimum .4 FTE but less than .8 FTE and experiencing homelessness
3. BUSD Full-Time Employee -- BUSD employee is a minimum .8 FTE
4. BUSD Part-Time Employee -- BUSD employee is a minimum .4 FTE but less than .8 FTE

Additional Eligibility Criteria:

- **Employee Definition:** For the purposes of the Housing Preference, BUSD defines Employee as a District Employee that is categorized as one of the following: Permanent; Probationary 2; Certificated Adult School.
- Verification of eligibility for either the BUSD Full-Time Employee preference or BUSD Part-Time Employee preference will be verified by BUSD administrative office.
- BUSD employees employed at less than .4 FTE will not receive a BUSD Employee preference

RESOLUTION NO. 70,960-N.S.

ADOPTING A HOUSING PREFERENCE POLICY FOR AFFORDABLE UNITS DEVELOPED WITH CITY SUBSIDY AND THROUGH THE BELOW MARKET RATE PROGRAM

WHEREAS, in the 1960s and 1970s, Bay Area Rapid Transit ("BART") bought blocks of homes, in some cases invoking eminent domain, in order to build BART stations in Berkeley, displacing residents of South Berkeley and North Berkeley in the process. Those who lost their homes due to BART construction forewent intergenerational wealth-building; and

WHEREAS, redlining created large areas of concentrated communities of color into which subprime loans were channeled. From mid-2007 to mid-2008, there were more than 350 foreclosures in Berkeley; foreclosures in Berkeley were concentrated in South and West Berkeley. The City of Berkeley did not have a foreclosure assistance program. In the 2022 Point-in-Time Count, eviction/foreclosure/rent increase was the second most common cause of homelessness; and

WHEREAS, community input indicates that Berkeley families are being displaced from their social networks and school districts, often to lower-resourced areas. Research and community knowledge indicate that children are most impacted by displacement, via impacts to education, child care, and peer networks; and

WHEREAS, evictions remain part of an individual's rental history for seven years, impacting their ability to secure safe and affordable housing. Given the shortage of affordable housing in Berkeley, an eviction from a housing unit may represent displacement from one's community. In the 2022 Point-in-Time Count, eviction/foreclosure/rent increase was the second most common cause of homelessness; and

WHEREAS, 49% of low-income renters in Berkeley are severely rent-burdened, spending more than half their income on rent. The number of people experiencing homelessness in Berkeley has steadily grown at an average rate of 10% every two years between 2006 and 2019. Black people are disproportionately represented in Berkeley's homeless population; since 2006, 65% of homeless service users in Berkeley are Black, when Black people comprise less than 8% of the overall population; and

WHEREAS, redlining has led to patterns of disinvestment that continue to enable gentrification. Approximately 83% of today's gentrifying areas in the East Bay were rated as "hazardous" (red) or "definitely declining" (yellow) by the government-sponsored corporation that introduced redlining. These policies have limited homeownership and housing stability in these Berkeley neighborhoods, which were predominantly populated by people of color; and

WHEREAS, the City of Berkeley ("City") provides funding to support affordable housing development in the City through its Housing Trust Fund program; and

WHEREAS, the City creates affordable housing via the City's Inclusionary Housing Requirements (Berkeley Municipal Code Section 23.328), requiring new market-rate residential developments to include Below Market Rate affordable housing units; and

WHEREAS, from February 2020 to February 2022, the City participated in the Partnership for the Bay's Future Challenge Grant to develop a Housing Preference Policy informed by community engagement led by local community partners Healthy Black Families and East Bay Community Law Center; and

WHEREAS, on June 2, 2022, the City of Berkeley and BART adopted the City and BART Joint Vision and Priorities (JVP) for Transit-Oriented Development at the Ashby and North Berkeley BART Stations that included a shared priority for displacement prevention that states that "affordable housing should provide a preference for residents of Berkeley who are facing displacement, or who have been displaced from Berkeley in the past due to economic or discriminatory reasons"; and

WHEREAS, California Senate Bill (SB) 649 was adopted by the State of California in September 2022 to establish that it is the State's policy that lower-income individuals residing in neighborhoods and communities experiencing significant displacement, as specified, need access to housing that is affordable and assists in avoiding displacement, and that a local tenant preference adopted pursuant to the bill's provisions is subject to the duty of public agencies to affirmatively further fair housing.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley finds and declares the following:

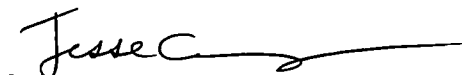
1. Adopts a Housing Preference Policy, as set forth in Exhibit A to this Resolution and incorporated by this reference, that applies to new affordable housing units created by the City's Housing Trust Fund and Below Market Rate programs;
2. Directs the City Manager to adopt guidelines to administer the Housing Preference Policy and take any other action with respect to the policy consistent with this resolution and its purpose;
3. Establishes that this Housing Preference Policy shall be applied only to the extent allowed by Fair Housing law and other government agency funding sources; and
4. Establishes that the Housing Preference Policy shall take effect January 1, 2024.

The foregoing Resolution was adopted by the Berkeley City Council on July 11, 2023 by the following vote:

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

Noes: None.

Absent: None.


Jesse Arreguin, Mayor

Attest: 
Rose Thomsen, Deputy City Clerk

Exhibit A. Housing Preference Policy

Preference	Points	Preference Details
Displacement due to BART construction	(First priority)	Descendant of someone who was displaced due to construction of BART in the 1960s and 1970s in Berkeley.
Displaced due to foreclosure	1	Displaced due to foreclosure in Berkeley since 2005.
Displaced due to eviction	1	Displaced in Berkeley due to no-fault or non-payment eviction within the past seven years.
Families with children	1	Household with at least one child aged 17 or under.
Homeless <u>OR</u> at-risk of homelessness	1	Homeless and not eligible for Permanent Supportive Housing <u>OR</u> At-Risk of Homelessness with current/former address in Berkeley.
Ties to redlined areas	1	Residential ties to Berkeley's redlined areas – current or former address of applicant.
Ties to redlined areas – historical	1	Residential ties to Berkeley's redlined areas – applicant is a direct descendant of someone who lived in redlined areas.