

ORDINANCE NO. 184745

THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS:

Section 1. **Name.** This ordinance initiative shall be known and may be cited as “The Build Better LA Initiative,” and shall be referred to herein as “the Build Better LA Initiative” or “this Ordinance.”

Sec. 2. **Findings.** The People of Los Angeles hereby find:

The City of Los Angeles has seen a surge in homeless individuals and families who are forced to sleep on our streets, in our parks, and below our bridges. While LA has had the unfortunate distinction of being the nation’s homeless capital for quite some time, the current situation has become so dire that City leaders considered declaring a State of Emergency. At last count, nearly 26,000 Angelenos were homeless, including those suffering from various medical challenges, people of color, families with children, and individuals who are employed. While their backgrounds and stories are as diverse as the population of LA, they share a common struggle with the majority of LA residents who are struggling to afford skyrocketing rents. A recent study from the University of California, Los Angeles shows that Los Angeles, which has the highest percentage of renters in the nation, is also now the least affordable rental market in the nation. Another study from Harvard University states that at least half of all households in LA are rent burdened, or spending more than 30% of their monthly income on housing, with significant numbers paying more than 50% of their income for housing costs. With average rents nearing \$2,000 per month, research has found that an individual must earn over \$30 per hour to afford the rent for a one bedroom apartment in LA and a working family must earn over \$88,000 per year to afford the rent for a two-bedroom apartment in LA - amounts that are out of reach for a city where nearly a quarter of its residents are in poverty and the median income is less than \$28,000 per year.

Despite the tremendous need for the construction of new housing, especially for those with extremely low, very-low, and low incomes, LA continues to struggle with capacity. The City expects to fall far short of its need for affordable housing - projecting that it may meet only 26% of the housing needed for lower-income households while exceeding the need for wealthier households. In May 2014, Southern California Association of Nonprofit Housing (SCANPH) released a report showing that the LA region had a shortfall of nearly 500,000 units of affordable housing available to low and very-low income residents. Southern California Association of Governments (SCAG) estimated that LA had a shortage of over 82,000 housing units, which according to the City’s calculations, necessitates production of nearly 11,000 units per year, half of which would be affordable. Unfortunately, the City only has the funding to build 500 units annually and that could drop to 250 in the coming years. In other words, LA does not have the available building stock to address the homeless and affordable housing crisis.

The acute shortage of affordable housing available to those who are homeless or low income is not a new phenomenon and has many causes. Among the many reasons are a lack of public financing for affordable housing and an outdated general plan that does not provide incentives to build the type of housing we need. Cities like LA have been devastated by the dissolution of the Community Redevelopment Agency (CRA). In fiscal year 2009-2010, CRAs throughout California deposited over \$1 billion into accounts for low and moderate income housing. With the CRA being dissolved, cities and counties lost their most reliable funding source for projects that house residents with low to moderate incomes. The City's Affordable Housing Trust Fund (AHTF) was created in 2000 to fund the construction and preservation of affordable housing. Available funding in the Trust Fund has dipped below \$20 million, far below the amount needed to meet the current demand. Given losses in funding, maximizing land use strategies and incentives for both producing and preserving affordable housing is crucial.

Unfortunately, LA has an outdated General Plan, based upon codes that were developed in the aftermath of World War II. While the City's population has doubled from less than 2 million to nearly 4 million in 5 decades, the rules that govern construction keep LA locked into a small-city framework. 60% of LA is covered by a mix of mismatched zoning regulations. We need and deserve a General Plan and zoning codes that address our current challenges, while also embracing the diverse and dynamic city that LA is today and will continue to be in the future.

Cities across the nation have sought to encourage residential development for all income levels around major transit areas and along mixed-use boulevards. As we fight to add more affordable housing, new units must also be located in strategic locations such as areas near major transit stops in order to provide our workers, seniors and students with affordable and convenient travel on a daily basis. By doing so, we also promote healthy, safe, walkable, and sustainable spaces at all economic levels. Current residents of transit-rich neighborhoods in the City are three times as likely to use transit, walk, or bike to work, significantly more likely to be renters, typically make less than \$30,000 per year, and are the groups most susceptible to displacement when property values rise and trigger higher rents.

The City's General Plan encourages provision of sufficient land use and density to accommodate an adequate supply of housing units to meet projected housing needs and encourages location of new housing near transit stations and corridors and within high activity areas while also protecting and preserving low-density neighborhoods. (See, e.g. Framework Element Policy 4.1.1, Objectives 4.2 and 4.3). The City's General Plan Housing Element also sets forth a primary goal of creating "[a] City where housing production and preservation result in an adequate supply of ownership and rental housing that is safe, healthy and affordable to people of all income levels, races, ages, and suitable for their various needs." Recognizing that affordable housing is a matter of statewide concern, the City's Housing Element encourages increasing the supply of affordable and mixed-income housing through land use programs, preserving affordable and rent-stabilized housing, particularly along transit corridors (See,

e.g., Policy 1.2.2 and 1.2.8), and promoting sustainable neighborhoods that have mixed-income housing, jobs, amenities, services, and transit, and targeting housing resources, policies, and incentives to include affordable housing in residential development, particularly in mixed use development, Transit-Oriented Districts and designated Centers. Program 8, Objective 2.2, Policy 2.5.1. In furtherance of these General Plan policies and programs, a primary purpose of this ordinance is to create mixed-income development and encourage on-site affordable housing in market rate development projects within Transit-Oriented Districts and designated Centers. The development of mixed-income housing increases social and economic integration, and creates a healthy job and housing balance by locating affordable housing close to employment centers.

As LA continues to suffer through a homeless and affordable housing crisis, we need a General Plan and zoning codes that create incentives for projects that create affordable housing and provide local jobs at the income levels needed to pay the rents found throughout the City. In a city with widespread poverty, we must build more affordable housing and as result, create the local jobs necessary to raise families out of poverty. The City's General Plan aims to maintain the balance of local job creation and housing development. Chapter 7 of the General Plan states, "If the jobs/housing ratio declines, that is, if the number of jobs declines in relationship to the number of housing units, then the City's economic vitality may spiral downward. If the jobs/housing ratio increases, that is, if the number of jobs increases in relationship to the number of housing units, the housing shortage and the need for affordable housing would be exacerbated." LA recognizes that increasing housing must also be connected to similar increases in local jobs. To ensure affordability, we must also make sure that the jobs created from the construction boom pay good, family-supporting wages. Each development which contributes to affordable housing and good jobs through the provisions of this Initiative augments the City's housing mix, helps to increase the supply of housing for all economic segments of the community, and supports a balanced community which is beneficial to the public health, safety and welfare of the City.

Now THEREFORE, based upon these findings the people declare that the City adopt the legislation contained herein in order to address our homeless and affordable housing crisis, while also creating good jobs with family-supporting wages.

Sec. 3. Affordable Housing and Good, Local Jobs.

Subdivision B of Section 11.5.6 of Article 1.5 of the Los Angeles Municipal Code is amended to read as follows:

SEC. 11.5.6. GENERAL PLAN.

Pursuant to Charter Section 555, the City's comprehensive General Plan may be adopted, and amended from time to time, either as a whole, by complete subject elements, by geographic areas or by portions of elements or areas,

provided that any area or portion of an area has significant social, economic or physical identity.

A. Amendments. Amendments to the General Plan of the City shall be initiated, prepared and acted upon in accordance with the procedures set forth in Charter Section 555 and this section.

B. Initiation of Plan Amendment. As provided in Charter Section 555, an amendment to the General Plan may be initiated by the Council, the City Planning Commission or the Director of Planning. Initiations by the Council or City Planning Commission shall be by majority vote. If an amendment is initiated by the Council or City Planning Commission, then it shall be transmitted to the Director for report and recommendation to the City Planning Commission.

Whether initiated by the Director, the Council or the City Planning Commission, the Director shall prepare the amendment and a report recommending action by the City Planning Commission. The report shall contain an explanation of the reasons for the action recommended.

After the Director prepares a Plan amendment and report, the Director shall transmit the file to the City Planning Commission for its action. Nothing in this section shall restrict the adoption of a General Plan amendment which permits the development of a project if:

1. The project (a) is located in an area classified on January 1, 2016, as a Regional Center, a Downtown Center, in an area zoned as Industrial, or a Major Transit Stop including all land within a one-half mile radius of a Major Transit Stop; or (b) each residential unit in the project, exclusive of a manager's unit or units, is affordable to, and occupied by, either a Lower or Very Low Income household;

2. All building and construction work on the project will be performed at all tiers by contractors which (a) are licensed by the State of California and the City of Los Angeles; (b) shall make a good-faith effort to ensure that at least 30% of all their respective workforces' construction workers' hours of Project Work shall be performed by permanent residents of the City of Los Angeles of which at least 10% of all their respective workforces' construction workers' hours of Project Work shall be performed by Transitional Workers whose primary place of residence is within a 5-mile radius of the covered project; (c) employ only construction workers which possess all licenses and certifications required by the State of California and the City of Los Angeles; (d) pay their construction workers performing project work the wages prevailing in the project area determined pursuant to California Labor Code § 1770; and (e) have at least 60% of their respective construction workforces on the project from: (1) workers who have graduated from a Joint Labor Management

apprenticeship training program approved by the State of California, or have at least as many hours of on-the-job experience in the applicable craft which would be required to graduate from such a state-approved apprenticeship training program, and (2) registered apprentices in an apprenticeship training program approved by the State of California or an out-of-state, federally-approved apprenticeship program; and

3. If the General Plan amendment results in increased allowable residential floor area, density or height, or allows a residential use where previously not allowed, projects with ten or more residential dwelling units shall also provide affordable housing consistent with the provisions of Section 5 of the Build Better LA Initiative.

For the purposes of this Section the following terms have the meaning shown:

“Transitional Worker” means an individual who, at the time of commencing work on the project, resides in an Economically Disadvantaged Area or Extremely Economically Disadvantaged Area and faces at least two of the following barriers to employment: (1) being homeless; (2) being a custodial single parent; (3) receiving public assistance; (4) lacking a GED or high school diploma; (5) having a criminal record or other involvement with the criminal justice system; (6) suffering from chronic unemployment; (7) emancipated from the foster care system; (8) being a veteran; or (9) being an apprentice with less than 15% of the apprenticeship hours required to graduate to journey level in a program.

“Economically Disadvantaged Area” means a zip code that includes a census tract or portion thereof in which the median annual household income is less than \$40,000 per year, as measured and reported by the U.S. Census Bureau in the 2010 U.S. Census and as updated by the parties upon the U.S. Census Bureau issuing updated Median Annual Household Income data by census tract in the American Community Survey.

“Extremely Economically Disadvantaged Area” means a zip code that includes a census tract or portion thereof in which the median annual household income is less than \$32,000 per year, as measured and reported by the U.S. Census Bureau in the 2010 U.S. Census and as updated by the parties upon the U.S. Census Bureau issuing updated Median Annual Household Income data by census tract in the American Community Survey.

The Department of Public Works, Bureau of Contract Administration shall bear administrative responsibilities for the labor standards required by this section.

C. Action by City Planning Commission on Proposed Amendments.

1. **Notice and Hearing.** Before the City Planning Commission acts on a proposed Plan amendment and the Director's recommendation, the matter shall be set for a public hearing. The City Planning Commission may hold the hearing itself or may direct the Director to hold the hearing. In either event, notice of the time, place and purpose of the hearing shall be given by at least one publication in a newspaper of general circulation in the City (designated for this purpose by the City Clerk), at least ten days prior to the date of the hearing. Notice shall also be mailed to any person requesting notice of the hearing.

At the time of the hearing, the City Planning Commission or the Director shall hear public testimony from anyone wishing to be heard on the matter. The City Planning Commission or the Director may continue the hearing to another date announced publicly at the hearing being continued; no additional notice of the continued hearing need be given. If the hearing is conducted by the Director, he or she shall submit a report to the City Planning Commission summarizing the information received. The report may also contain a recommendation to the City Planning Commission regarding its action on the proposed amendment. The Director shall file his or her report with the City Planning Commission after the close of the hearing.

2. **City Planning Commission Action.** After receiving the Director's report, or after the close of a public hearing conducted by the City Planning Commission, the City Planning Commission shall recommend to the Mayor and the Council that the proposed amendment be approved or disapproved in whole or in part. The City Planning Commission's report to the Mayor and the Council shall set forth the Commission's reasons for its recommendation.

The City Planning Commission shall act within 90 days after receiving the Director's report pursuant to Subsection B. If the City Planning Commission fails to do so, the City Planning Commission's failure to act shall be deemed a recommendation for approval of the Plan amendment.

If the City Planning Commission recommends approval of any proposed Plan amendment or disapproval of either a proposed amendment initiated by the Director or the Council, the Commission shall transmit as soon as possible those actions to the Mayor for consideration and report to the Council. If the City Planning Commission recommends the disapproval of a Plan Amendment initiated by it, the City Planning Commission shall report its decision to the Council and Mayor.

D. Action by the Mayor on Proposed Amendments. Within 30 days after receipt of the City Planning Commission's recommendation, the Mayor shall

make a recommendation to the Council on the proposed Plan amendment. The Mayor's report to the Council shall set forth the Mayor's reasons for his or her recommendation. If the Mayor does not act within the 30-day period, the Mayor's inaction shall be deemed a recommendation for approval of the Plan amendment.

E. Action by the Council on Proposed Amendments. After receiving the recommendations of the City Planning Commission and the Mayor, or at the expiration of the 30-day period for the Mayor to act, the Council shall hold a public hearing on the proposed Plan amendment.

After the close of the public hearing, the Council may do either of the following:

1. Approve or disapprove the Plan amendment in whole or in part in accordance with Charter Section 555(e); or
2. Propose changes to the Plan amendment.

The Council shall take either of these actions within 75 days after receiving the recommendation of the Mayor, or within 75 days after the expiration of the Mayor's time to act if the Mayor has not made a timely recommendation. The failure of the Council to act within that 75-day period shall constitute a disapproval of the Plan amendment.

In accordance with Charter Section 555(e), if both the City Planning Commission and the Mayor recommend approval of a proposed amendment, the Council may adopt the amendment by a majority vote. If either the City Planning Commission or the Mayor recommends the disapproval of a proposed amendment, the Council may adopt the amendment only by at least a two-thirds vote. If both the City Planning Commission and the Mayor recommend the disapproval of a proposed amendment, the Council may adopt the amendment only by at least a three-fourths vote.

F. Proposed Changes by the Council. If the Council proposes changes to the Plan amendment that differ from the amendment as initiated or the recommendation of the City Planning Commission, the matter shall be returned simultaneously to the City Planning Commission and the Mayor for their recommendations on the proposed changes. In acting on those changes, the City Planning Commission and the Mayor shall follow the procedures set forth above for their initial action. The City Planning Commission shall act within 60 days of receipt of the Council's proposed change. The Mayor shall act within 30 days of the receipt of the City Planning Commission's recommendation on the proposed change, or the expiration of the time for the City Planning Commission to act if the Commission fails to make a timely recommendation. If either the City Planning Commission or the Mayor does not act within the time period, that

inaction shall be deemed a recommendation of approval of the proposed changes. The recommendations of the Commission and the Mayor on any changes made by the Council shall affect only those changes. The Council shall act to approve or disapprove, in whole or in part, the Plan amendment, including the Council's changes, within 120 days after receiving both the City Planning Commission's and the Mayor's recommendations on the Council's proposed changes, or the expiration of their time to act on those changes.

Sec. 4. Requirement for Plan Updates and Consistency.

Section 11.5.8 of Article 1.5 of the Los Angeles Municipal Code is amended to read as follows:

SEC. 11.5.8. GENERAL PLAN REVIEW.

A. Planning Areas. The City is hereby divided into 37 planning areas. Each planning area constitutes an area for which either a community plan, a district plan, or other portion of the Land Use Element of the General Plan has been adopted by the City. The boundaries of each planning area shall be those of the applicable adopted community or district plan, or other portion of the Land Use Element of the General Plan as they existed on enactment of this section. These boundaries may be only changed by amendment to the General Plan pursuant to the procedures set forth in Section 11.5.6 of this Code. No amendment to a plan for any of the 37 planning areas, including reduction in the number of such areas, changes in their respective boundaries, land uses permitted within or at any particular location in any such area, or any other material change, may be made until the completion of a comprehensive assessment of such proposed changes by the Planning Department to ensure that such changes do not:

1. Reduce the capacity for creation and preservation of affordable housing and access to local jobs; or
2. Undermine California Government Code Section 65915 or any other affordable housing incentive program; and

The changes must include a program to create and monitor an inventory of units within the Community Plan Area that are: subject to a recorded covenant, ordinance or law that restricts rents to levels affordable to persons and families of Lower or Very Low-Income; subject to the City Rent Stabilization Ordinance; and/or occupied by Lower-Income or Very Low-Income households.

B. Action on Proposed Amendments. The City Planning Commission shall receive the assessment by the Planning Department and shall by vote make a recommendation to accept or reject the amendment. The Commission's recommendation will be received by City Council and the Council shall vote to

either accept or reject the proposed amendment. The current plans for the 37 planning areas shall remain in full force and effect until or unless the City Council votes to amend them in accordance with this section.

Sec. 5. Affordable Housing and Good Jobs.

A. The following section shall be added into the Los Angeles Municipal Code. The Los Angeles City Council shall have authority to make non-substantive modifications to the language contained within this Initiative solely to conform to the Los Angeles Municipal Code, to the extent necessary. Any such non-substantive modifications, including re-numbering, shall not be required to go through any further voter approval process:

SEC. 11.5.11. AFFORDABLE HOUSING.

(a) Affordable Housing. To be eligible for a discretionary General Plan amendment pursuant to Subdivision B of Section 11.5.6 of the Los Angeles Municipal Code or otherwise, or any zone change or height-district change that results in increased allowable residential floor area, density or height, or allows a residential use where previously not allowed, Projects with ten or more residential dwelling units shall meet one of the following on-site affordability provisions, or satisfy one of the alternative options in subdivision (b) and shall comply with the job standards in subdivision (i).

1. **Rental Projects** shall provide the following:

(i) No less than the affordability percentage corresponding to the level of density increase as provided in California Government Code Section 65915(f), inclusive of any Replacement Units; or

(ii) If the General Plan amendment, zone change or height district change results in a residential density increase greater than 35%, then the Project shall provide no less than 5% of the total units at rents affordable to Extremely Low Income households, and either 6% of the total units at rents affordable to Very Low Income households or 15% of the total units at rents affordable to Lower Income households, inclusive of any Replacement Units; or

(iii) If the General Plan amendment, zone change or height district change allows a residential use where not previously allowed, then the Project shall provide no less than 5% of the total units at rents affordable to Extremely Low Income households, and either 11% of the total units at rents affordable to Very Low Income

households or 20% of the total units at rents affordable to Lower Income households, inclusive of any Replacement Units.

2. **For-sale Projects** shall provide the following:

(i) No less than the affordability percentage corresponding to the level of density increase as provided in California Government Code Section 65915(f), inclusive of any Replacement Units; or

(ii) If the general plan amendment, zone change or height district change results in a residential density increase greater than 35% or allows a residential use where not previously allowed, then the Project shall provide no less than 11% of the total units at rents affordable to Very Low Income households, or 20% of the total units at rents affordable to Lower Income households, or 40% of the total units at rents affordable to Moderate Income households, inclusive of any Replacement Units.

3. **100% affordable.** Each residential unit in the Project, exclusive of a manager's unit or units, is affordable to, and occupied by, either a Lower or Very Low Income household.

4. **Projects with both for-sale and rental units.** When a Project includes both for-sale and rental dwelling units, the provisions of this Section that apply to for-sale residential development shall apply to that portion of the Project that consists of for-sale dwelling units, while the provisions of this Section that apply to rental dwelling units shall apply to that portion of the development that consists of rental dwelling units.

All Projects qualifying for development bonuses pursuant to this Section shall be required to meet any applicable replacement requirements of California Government Code Section 65915(c)(3).

A Developer seeking and receiving a density or development bonus under the provisions of California Government Code Section 65915 or any other State or local program that provides development bonuses shall not be eligible for the development bonuses pursuant to this Section. For purposes of this provision, development bonuses shall include discretionary General Plan amendments, zone changes, and height district changes.

(b) **Alternative compliance options.** A Project may satisfy the affordability provisions of this section through the following off-site options in lieu of providing affordable units on site:

1. Off-site Construction. The affordability provisions of this Section may be satisfied by constructing off-site affordable units at the following rate:

(i) No less than the same number of on-site affordable units, at the same or greater mix of unit type and affordability levels as provided in paragraph (a), if constructed within one-half mile of the outer edge of the Project;

(ii) No less than 1.25 times the number of on-site affordable units, at the same or greater mix of unit type and affordability levels as provided in paragraph (a), if constructed within 2 miles of the outer edge of the Project;

(iii) No less than 1.5 times the number of on-site affordable units, at the same or greater mix of unit type and affordability levels as provided in paragraph (a), if constructed within 3 miles of the outer edge of the Project.

The off-site units created pursuant to this paragraph must be on a site that is zoned for residential development at a density to accommodate at least the number of otherwise required units; is suitable for development of the units in terms of configuration, physical characteristics, location, access, adjacent uses and other relevant planning and development criteria; and environmental review has been completed to the satisfaction of the City prior to acceptance of the site by the City. The development of off-site affordable units shall include integration of community space and services as required by the Housing and Community Investment Department for comparable affordable housing development. The first Certificate of Occupancy for the off-site units shall be issued prior to or concurrent with the first Certificate of Occupancy for the original Project. In no event shall the Certificate of Occupancy for the market rate units for the original project be issued prior to the Certificate of Occupancy for the affordable off-site units. Individual affordable units constructed as part of an off-site project under this Section shall not receive development subsidies from any Federal, State or local program established for the purpose of providing affordable housing, and shall not be counted to satisfy any affordable housing requirement for the off-site development. Other units in the same offsite project may receive such subsidies. In addition, subsidies may be used, only with the express written permission by the Department of Housing and Community Investment, to deepen the affordability of an affordable unit beyond the level of affordability required by this Section.

2. Off-site Acquisition. The affordability provisions of this Section may be satisfied by the acquisition of property containing At-Risk

Affordable Units and converting the units to non-profit, Community Land Trust, and/or tenant ownership prior to issuance of the Certificate of Occupancy for the original Project. Prior to transferring ownership to a qualified entity, the At-Risk Affordable Units shall achieve a minimum of a C2 rating based on the Fannie Mae Uniform Appraisal Dataset Property Condition Ratings, as assessed and certified by the Housing and Community Investment Department (HCID), or as required by HCID to be completed by the Developer and subsequently certified by HCID. Any entity taking ownership of At-Risk Affordable Units pursuant to this Section shall record an affordability covenant, consistent with the provisions of subsection (d), guaranteeing affordability to Lower or Very Low Income Households. The number of At Risk Affordable Units that must be acquired and converted to non-profit or tenant ownership under this subdivision shall be as follows:

(i) No less than the same number of on-site affordable units, at the same or greater mix of unit type and affordability levels as provided in paragraph (a), if acquired within one-half mile of the outer edge of the Project;

(ii) No less than 1.25 times the number of on-site affordable units, at the same or greater mix of unit type and affordability levels as provided in paragraph (a), if acquired within 1 mile of the outer edge of the Project;

(iii) No less than 1.5 times the number of on-site affordable units, and affordability levels as provided in paragraph at the same or greater mix of unit type if acquired within 2 miles of the outer edge of the Project.

3. **In-Lieu Fee.** The affordability provisions of this Section may be satisfied by the payment of a fee to the City in lieu of constructing the affordable units within the Project. The in lieu fee shall be determined by the City based on the following:

(i) The number of units equivalent to 1.1 times the required number of on-site affordable units pursuant to paragraph (a), in the same proportion of affordability, multiplied by the applicable Affordability Gap, as defined herein.

(ii) No later than 90 days from the enactment of this ordinance, the City shall produce a study identifying the Affordability Gap for rental and ownership units of each bedroom size (studio, 1 bedroom, 2 bedroom and 3 bedroom) for each required affordability level. For rental housing, the study shall collect and determine, by unit type and affordability level, the

following information from recently completed affordable housing projects funded by the City's Affordable Housing Trust Fund: total development costs and operating expenses. The study shall also determine the amounts of permanent financing available based on restricted rents and prevailing interest rates. The difference between the total development cost and permanent financing amount shall be the Affordability Gaps per unit by unit type and affordability level. For ownership housing, the study shall identify the market median sales prices by unit type in the 37 Community Plan areas. It shall determine the restricted sales prices of for-sale units by unit type and affordability level. The difference between the market median sales price and the restricted sales price shall be the Affordability Gaps per unit by unit type and affordability level.

(iii) The City shall adjust the fee every two years, based on the results of a new Affordability Gaps study (as defined Section 5(b)(3)(ii)). An Affordability Gaps study, the proposed adjusted Affordability Gaps, and the adjusted fees shall be published within 2 years of the date that the original Affordability Gaps study is released, and consecutively thereafter by the date that is 2 years after the release of the previous Gaps study.

The fee is due and payable to the Affordable Housing Trust Fund at the time of and in no event later than issuance of the first building permit, concurrent with and proportional to project phases. The Developer shall have an option to defer payment of all or a portion of the fee upon agreeing to pay a Deferral Surcharge, with the fee and the Deferral Surcharge due and payable at the time of and in no event later than issuance of the Certificate of Occupancy. The Deferral Surcharge will be assessed at the Wall Street Journal Prime Rate plus 200 basis points at the time such fee is due, at the issuance of the building permit. The Deferral Surcharge fee shall be deposited into the Affordable Housing Trust Fund and accounted for and used as provided in Section (c).

(c) Use of Funds. All monies contributed pursuant to this Section shall be deposited in the City's Affordable Housing Trust Fund. All funds collected under this Section shall be used in the following manner:

1. Except as provided in Subdivision (2) below, the funds collected under this Section shall be used to create and/or preserve housing affordable to Extremely Low-, Very Low-, and Lower-Income households.

2. The City shall designate and separately account for all Deferral Surcharge payments that it receives under this Section to support the creation and/or preservation of affordable housing within one-half mile

of a Major Transit Stop ("TOC area"), with priority to TOC Areas where there is a demonstrated decline in units affordable to and/or occupied by Extremely Low, Very Low and/or Lower Income households. Use of the Deferral Surcharge funds shall include but not be limited to the following:

- (i) Acquisition and/or remediation of land, and/or acquisition, construction, rehabilitation, and/or financing of housing units by a Community Land Trust or non-profit entity which guarantees perpetual affordability of these units for Extremely Low, Very Low and/or Lower-Income Households or a term of affordability of these units that has a duration of a minimum of 55 years.
- (ii) Funding for proactive enforcement of the City's Rent Stabilization Ordinance.

(d) Continuing Affordability/Standards for Affordable Units.

1. All affordable rental housing units created or acquired pursuant to this Section shall be subject to an affordability covenant acceptable to the Housing and Community Investment Department, and recorded with the Los Angeles County Recorder, guaranteeing continuing affordability to the targeted income group for no less than 55 years. In addition, when units are acquired and conveyed pursuant to the Off-Site Acquisition option, the Developer and/or entity taking ownership of the units shall create and implement a plan to prevent involuntary displacement of current tenants. Affordable units provided under this Section shall be comparable to the market rate units in the Project (or off-site location in the case of off-site affordable units) in terms of unit type, number of bedrooms per unit, quality of exterior appearance, energy efficiency, and overall quality of construction.

2. All for-sale housing units created pursuant to this Section shall be subject to an affordability covenant acceptable to the Los Angeles Housing and Community Investment Department, and recorded with the Los Angeles County Recorder, consistent with the for-sale requirements of California Government Code Section 65915(c)(2).

3. A longer term of affordability may be required if the Project receives a subsidy which requires a longer term of affordability. If the duration of affordability covenants provided for in this subsection conflicts with any other government requirement, the longest duration shall control.

(e) Developer Incentives. In addition to the requested General Plan amendments, zone changes and/or height district changes, a Project that provides affordable housing consistent with this Section shall also be entitled to

three incentives or concessions specified in California Government Code Section 65915(k) or the applicable Affordable Housing Incentive Program.

(f) Processing. A Project that provides affordable housing consistent with this Section shall be entitled to review and processing by the Expedited Processing Section of the Planning Department dedicated solely to processing entitlements for such Projects with the goal of expediting such Projects.

(g) City Council approved adjustments to affordable housing set-asides contained herein. The City may, by majority vote of City Council, adjust the affordable housing percentages set forth in this Section upon a showing of substantial evidence that such adjustments are necessary to maximize affordable housing while ensuring a reasonable return on investment for Developers.

(h) Waiver/Adjustment. Notwithstanding any other provision of this Section, the requirements of this Section may be waived or adjusted only if a Project applicant shows, based on substantial evidence, that compliance with its requirements would result in a deprivation of the applicant's constitutional rights. The applicant shall bear the burden of presenting substantial evidence to support the request and set forth in detail the factual and legal basis for the claim, including all supporting technical documentation.

In determining whether an applicant has presented substantial evidence to support the request for waiver/adjustment, if upon legal advice provided by or at the behest of the City Attorney, it is determined that applying the requirements of this Section would effectuate an unconstitutional taking of property or otherwise have an unconstitutional application to the property, the requirements of this Section shall be adjusted or waived only to the extent necessary to avoid an unconstitutional result. If an adjustment or waiver is granted, any change in the use within the project shall invalidate the adjustment or waiver. If it is determined that no violation of the United States or California Constitutions would occur through application of this Section, the requirements of this Section remain fully applicable.

(i) All building and construction work on the project will be performed at all tiers by contractors which (a) are licensed by the State of California and the City of Los Angeles; (b) shall make a good-faith effort to ensure that at least 30% of all their respective workforces' construction workers' hours of Project Work shall be performed by permanent residents of the City of Los Angeles of which at least 10% of all their respective workforces' construction workers' hours of Project Work shall be performed by Transitional Workers whose primary place of residence is within a 5-mile radius of the covered project; (c) employ only construction workers which possess all licenses and certifications required by the State of California and the City of Los Angeles; (d) pay their construction workers performing project work the area standard wages in the project area; and (e) have at least 60% of their respective construction workforces on the project from:

(1) workers who have graduated from a Joint Labor Management apprenticeship training program approved by the State of California, or have at least as many hours of on-the job experience in the applicable craft which would be required to graduate from such a state approved apprenticeship training program, and (2) registered apprentices in an apprenticeship training program approved by the State of California or an out-of-state, federally-approved apprenticeship program. The Department of Public Works, Bureau of Contract Administration, shall bear administrative responsibilities for the labor standards required by this subsection.

(j) Definitions.

“At-Risk Affordable Unit” shall mean any residential dwelling unit that receives government assistance under prescribed federal, State, and/or local programs, or any combination of rental assistance and is eligible to convert to market rate due to termination (opt-out) of a rent subsidy contract, prepayment of a subsidized mortgage, or expiration of rental restrictions. These assistance programs include, but are not limited to, Housing Choice Vouchers [formerly Section 8], project-based rental assistance, subsidized mortgage programs (e.g., FHA), or expiring rent/deed restrictions with the use of State or local funding programs, including Community Redevelopment Agency Covenants.

“Community Land Trust” shall mean a California nonprofit corporation that: (1) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; (2) is neither sponsored by, controlled by, nor under the direction of a for-profit organization; (3) has a corporate membership of adult residents of a particular geographic area as described in the bylaws of the corporation; (4) has a board of directors that: (A) includes a majority of members who are elected by the corporate membership; (B) includes representation by persons occupying and/or leasing any structural improvements on the land; and (C) includes representation by persons residing within the geographic area specified in the bylaws of the corporation who neither lease land from the corporation nor occupy structural improvements controlled by the corporation; (5) acquires and retains parcels of land, primarily for conveyance under long-term ground leases; (6) transfers ownership of many or all of the structural improvements located on such leased parcels to the lessees; and (7) retains a preemptive option to purchase such structural improvements at a price determined by formula that is designed to ensure that the improvements remain affordable to low and moderate income households in perpetuity.

“Developer” shall mean the owner of the Project and, if different from the owner, any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which develops or causes to be developed the residential housing project and, if applicable, provides off-site affordable units, together with their successors and assigns, but does not include a lender, any governmental entity or the general contractor working for any developer.

“Economically Disadvantaged Area” means a zip code that includes a census tract or portion thereof in which the median annual household income is less than \$40,000 per year, as measured and reported by the U.S. Census Bureau in the 2010 U.S. Census and as updated by the parties upon the U.S. Census Bureau issuing updated Median Annual Household Income data by census tract in the American Community Survey.

“Extremely Economically Disadvantaged Area” means a zip code that includes a census tract or portion thereof in which the median annual household income is less than \$32,000 per year, as measured and reported by the U.S. Census Bureau in the 2010 U.S. Census and as updated by the parties upon the U.S. Census Bureau issuing updated Median Annual Household Income data by census tract in the American Community Survey.

“Extremely Low-Income Households” is defined in Section 50106 of the Health and Safety Code.

“Lower Income Households” is defined in Section 50079.5 of the Health and Safety Code.

“Project” shall mean the construction, erection, alteration of, or addition to a structure. The term Project shall not include interior or exterior improvements that do not increase the floor area over that of an existing structure, and shall not mean any construction for which a building permit or demolition permit is required to comply with an order issued by the Department of Building and Safety to repair, remove, or demolish an unsafe or substandard condition, or to rebuild as a result of destruction by fire, earthquake or natural disaster, provided that the development is not prohibited by any provision of the Los Angeles Municipal Code and the development does not increase the square footage beyond what previously existed on the site.

“Replacement Unit” shall mean any unit that would need to be replaced pursuant to California Government Code Section 65915(c)(3) if the Project was seeking a density bonus.

“Transitional Worker” means an individual who, at the time of commencing work on the project, resides in an Economically Disadvantaged Area or Extremely Economically Disadvantaged Area and faces at least two of the following barriers to employment: (1) being homeless; (2) being a custodial single parent; (3) receiving public assistance; (4) lacking a GED or high school diploma; (5) having a criminal record or other involvement with the criminal justice system; (6) suffering from chronic unemployment; (7) emancipated from the foster care system; (8) being a veteran; or (9) being an apprentice with less than 15% of the apprenticeship hours required to graduate to journey level in a program.

“Very Low-Income Households” is defined in Section 50105 of the Health and Safety Code.

B. Section 5.522 of the Los Angeles Administrative Code is amended to read as follows:

Sec. 5.522. Creation and Administration of the Affordable Housing Trust Fund.

(a) There is hereby created and established within the Treasury of the City of Los Angeles a special fund to be known as the City of Los Angeles Affordable Housing Trust Fund (the Fund) for the purposes of receiving and disbursing monies to address the affordable housing needs of the City of Los Angeles. In addition to the initial deposit of funds, the Mayor and City Council may establish additional revenue sources and appropriate funds for deposit in the Fund from time to time. An amount equal to 25% of the initial and continuing net revenue attributable to the 2001 business tax and payroll expense tax amnesty program and the initial and continuing net revenue attributable to the revenue program initiated pursuant to information obtained as a result of the enactment of Revenue and Taxation Code Section 1955.1 (AB 63) received in the applicable reporting period shall be allocated to the Fund and shall be transferred by the Controller from the General Fund to the Fund. The Fund shall be administered by the HCID.

(b) The money from the Fund shall only be expended within the boundaries of the City of Los Angeles, pursuant to guidelines (the “**Guidelines**”) promulgated for this purpose by the Housing and Community Investment Department (“**HCID**”). The Guidelines shall authorize expenditures from the Rental Housing Production Account, as established by Chapter I, Article 2.9 of the Los Angeles Municipal Code, and the Municipal Housing Finance Fund, Chapter 6, Article 4.5 of the Los Angeles Administrative Code. The Guidelines and any amendments thereto shall be approved by the City Council.

(c) Money in this account shall be used exclusively for the housing needs of the City, for the development and preservation of affordable housing and such other housing activities as that term shall be defined in the Guidelines. Such activities shall include loans and grants, including but not limited to:

(1) Activities by qualified entities to provide affordable housing;

(2) Predevelopment activities, acquisition, development, new construction, rehabilitation and/or restoration of rental and/or ownership of affordable housing in the City of Los Angeles;

(3) Any other activity that contributes to an increased supply of decent, safe and sanitary affordable housing in the City of Los Angeles.

(d) All monies in the Fund shall be held separately from all other funds expended by the HCID. All monies loaned from the Fund shall be repaid to the Fund in accordance with the terms of the loan. The repaid principal and interest shall be placed in the Fund.

(e) Any gifts, contributions or other money received for the stated purposes of the Fund shall be placed in the Fund. All interest earnings accruing on money in the Fund shall become part of the Fund. Money in the Fund shall not revert to the Reserve Fund of the City.

(f) The General Manager of HCID or his or her designee shall make recommendations to the City Council for expenditures from the Fund. No expenditure may be made from the Fund without the prior approval of the Mayor and the City Council, unless otherwise authorized by the Guidelines.

(g) The provisions of this Section are suspended during the fiscal year from July 1, 2009 through June 30, 2010.

(h) All building and construction work on the project, to extent allowed by the law, will be performed at all tiers by contractors which (a) are licensed by the State of California and the City of Los Angeles; (b) shall make a good-faith effort to ensure that at least 30% of all their respective workforces' construction workers' hours of Project Work shall be performed by permanent residents of the City of Los Angeles of which at least 10% of all their respective workforces' construction workers' hours of Project Work shall be performed by Transitional Workers whose primary place of residence is within a 5-mile radius of the covered project; (c) employ only construction workers which possess all licenses and certifications required by the State of California and the City of Los Angeles; (d) pay their construction workers performing project work the wages prevailing in the project area determined pursuant to California Labor Code § 1770; and (e) have at least 60% of their respective construction workforces on the project from: (1) workers who have graduated from a Joint Labor Management apprenticeship training program approved by the State of California, or have at least as many hours of on-the-job experience in the applicable craft which would be required to graduate from such a state approved apprenticeship training program, and (2) registered apprentices in an apprenticeship training program approved by the State of California or an out-of-state, federally-approved apprenticeship program. For the purposes of this subsection the following terms have the meaning shown:

"Transitional Worker" means an individual who, at the time of commencing work on the project, resides in an Economically Disadvantaged Area or Extremely Economically Disadvantaged Area and faces at least two of the following barriers to employment: (1) being homeless; (2) being a custodial single parent; (3) receiving public assistance; (4) lacking a GED or high school diploma; (5) having a criminal record or other involvement with the criminal

justice system; (6) suffering from chronic unemployment; (7) emancipated from the foster care system; (8) being a veteran; or (9) being an apprentice with less than 15% of the apprenticeship hours required to graduate to journey level in a program.

“Economically Disadvantaged Area” means a zip code that includes a census tract or portion thereof in which the median annual household income is less than \$40,000 per year, as measured and reported by the U.S. Census Bureau in the 2010 U.S. Census and as updated by the parties upon the U.S. Census Bureau issuing updated Median Annual Household Income data by census tract in the American Community Survey.

“Extremely Economically Disadvantaged Area” means a zip code that includes a census tract or portion thereof in which the median annual household income is less than \$32,000 per year, as measured and reported by the U.S. Census Bureau in the 2010 U.S. Census and as updated by the parties upon the U.S. Census Bureau issuing updated Median Annual Household Income data by census tract in the American Community Survey.

The Department of Public Works, Bureau of Contract Administration, shall bear administrative responsibilities for the labor standards required by this subsection. The requirements of this subsection, except clause (d) concerning wages, shall not apply to affordable housing developments of 25 units or less in which all units in the development except for managers’ units will be affordable to and occupied by -Lower Income households (as defined in Section 50079.5 of the Health and Safety Code). The requirements of this subsection, except clause (d) concerning wages, shall not apply to developments that have been issued award letters for state and/or local funding, which must include City of Los Angeles Affordable Housing Trust Fund award letters issued, prior to November 30, 2016.

On an annual basis, the Housing and Community Investment Department shall collect data, including but not limited to number and size of affordable housing developments and number of affordable units produced. The City may, by majority vote of City Council, adjust the labor standards required by this subsection, except clause (d) concerning wages, for affordable housing developments between 26 to 50 units in which all units in the development except for managers’ units will be affordable to and occupied by -Lower Income households (as defined in Section 50079.5 of the Health and Safety Code), if at all, during the calendar year beginning on January 1, 2020, only upon a showing of substantial evidence, which shall include technical documentation and a detailed factual or legal basis, that such adjustments are necessary to maximize production of affordable housing with good, construction jobs that pay wages in accordance with clause (d).

Sec. 6. Transit Oriented Communities Affordable Housing Overlay.

Subsection A of Section 12.22 of the Los Angeles Municipal Code is amended by adding a new Subdivision 31 to read as follows:

31. Transit Oriented Communities Affordable Housing Incentive Program.

(a) **Application of TOC Affordable Housing Incentive Program.** This Transit Oriented Communities Affordable Housing Incentive Program, and the provisions contained in the TOC Affordable Housing Incentive Program Guidelines, shall apply to all Housing Developments that are located within a one-half mile radius of a Major Transit Stop, as defined in subdivision (b) of Section 21155 of the California Public Resources Code. Each one-half mile radius around a Major Transit Stop shall constitute a unique Transit Oriented Communities Affordable Housing Incentive Area.

(b) **Preparation and Content of TOC Incentive Guidelines.** Within 90 days of enactment of this Ordinance, the Director of Planning shall prepare TOC Affordable Housing Incentive Program Guidelines ("TOC Guidelines") that provide the eligibility standards, incentives, and other necessary components of this TOC Incentive Program described herein. Nothing in the TOC Guidelines shall restrict any right authorized in the underlying zone or height district. The TOC Guidelines shall be drafted consistent with the purposes of this Subdivision and shall include the following:

(1) **Eligibility for TOC Incentives.** A Housing Development located within a TOC Affordable Housing Incentive Area shall be eligible for TOC Incentives if it provides minimum required percentages of On-Site Restricted Affordable Units, meets any applicable replacement requirements of California Government Code Section 65915(c) (3), and is not seeking and receiving a density or development bonus under the provisions of California Government Code Section 65915 or any other State or local program that provides development bonuses. Minimum required percentages of On-Site Restricted Affordable Units shall be determined by the Department of City Planning and set forth in the TOC Guidelines at rates that meet or exceed 11% of the total number of dwelling units affordable to Very Low income households; or 20% of the total number of dwelling units affordable to Lower Income households. The Department of City Planning shall also establish an option for a Developer to qualify for the TOC Incentives by providing a minimum percentage of units for Extremely Low Income Households, which shall be set at no less than 7%. In calculating the required Restricted Affordable Units,

the percentage shall be based on the total final project unit count, and any number resulting in a fraction shall be rounded up to the next whole number. In creating the TOC Guidelines, the Department of City Planning shall identify incentives for projects that adhere to the labor standards required in Section 5 of this Ordinance provided, that no such incentives will be created that have the effect of undermining the affordable housing incentives contained herein or in Government Code Section 65915.

(2) **TOC Incentives.** An Eligible Housing Development shall be granted TOC Incentives, as determined by the Department of City Planning consistent with the following:

(i) **Residential Density Increase.** An Eligible Housing Development shall be granted increased residential density at rates that shall meet or exceed a 35% increase. In establishing the density allowances, the Department of City Planning may allow adjustments to minimum square feet per dwelling unit, floor area ratio, or both, and may allow different levels of density increase depending on the Project's base zone and density.

(ii) **Parking.** An Eligible Housing Development shall be granted parking reductions consistent with California Government Code Section 65915(p).

(iii) **Incentives and Concessions.** An Eligible Housing Development may be granted up to either two or three incentives or concessions based upon the requirements set forth in California Government Code Section 65915(d)(2).

(c) **Approval of TOC Guidelines and Incentives.** The City Planning Commission shall review the TOC Guidelines and shall by vote make a recommendation to adopt or reject the TOC Guidelines.

(d) **Process for changing TOC Incentives and Eligibility.** The TOC Incentives and the required percentages for On-Site Restricted Affordable Units may be adjusted for an individual TOC Affordable Housing Incentive Area through a Community Plan update, Transit Neighborhood Plan, or Specific Plan, provided that the required percentages for On-Site Restricted Affordable Units may not be reduced below the percentages set forth in subdivision (b).

(e) **Procedures.** Application for the TOC Incentives shall be made on a form provided by the Department of City Planning, and shall

follow the procedures outlined in Los Angeles Municipal Code Section 12.22.A.25(g).

(f) **Covenant.** Prior to issuance of a building permit to create a Housing Development, the following shall apply:

(1) For any Housing Development qualifying for a TOC Incentive that contains rental housing for Extremely Low, Very Low, or Lower Income households, a covenant acceptable to the Los Angeles Housing and Community Investment Department shall be recorded with the Los Angeles County Recorder, guaranteeing that the affordability criteria will be observed for 55 years or longer.

(2) For any Housing Development qualifying for a TOC Incentive that contains for-sale housing, a covenant acceptable to the Housing and Community Investment Department and consistent with the for-sale requirements of California Government Code Section 65915(c)(2) shall be recorded with the Los Angeles County Recorder.

(3) If the duration of affordability covenants provided for in this subdivision conflicts with the duration for any other government requirement, the longest duration shall control.

(g) **Definitions.**

“Eligible Housing Development” shall mean a Housing Development that includes On-Site Restricted Affordable Units at a rate that meets or exceeds the minimum requirements to satisfy the TOC Incentives, as determined by the Department of City Planning and as set forth in paragraph (b)(1) above.

“Extremely Low-Income Households” is defined in Section 50106 of the Health and Safety Code.

“Housing Development” shall mean the construction of five or more new residential dwellings units, the addition of five or more residential dwelling units to an existing building or buildings, the remodeling of a building or buildings containing five or more residential dwelling units, or a mixed use development containing residential dwelling units.

“Lower Income Households” is defined in Section 50079.5 of the Health and Safety Code.

“On-Site Restricted Unit” shall mean a residential unit for which rental or mortgage amounts are restricted so as to be affordable to and

occupied by Extremely Low, Very Low, or Lower income households, as determined by the Housing and Community Investment Department.

“Very Low-Income Households” is defined in Section 50105 of the Health and Safety Code.

Sec. 7. Enforcement.

Any aggrieved person or resident of the City of Los Angeles shall have the right to maintain an action for equitable relief to restrain any violation of this Ordinance, or City failure to enforce the duties imposed on it by this Ordinance. The provisions of this Act shall be construed liberally to effectuate its intent and purposes. A joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Section 175a) may bring an action in any court of competent jurisdiction against an employer that fails to pay the prevailing wage to its employees as required by this Ordinance.

Sec. 8. Relationship to Other Laws.

All the provisions of this Ordinance are hereby declared by the people to be in direct and irreconcilable conflict with all of the provisions of any other initiative measure on the subject of development, the General Plan, planning areas, development project approvals, building or demolition permits, building moratoria, parking, affordable housing or wages for construction work and shall supersede the provisions of any such other initiative, if a majority of the voters vote in favor of both measures but this measure receives more votes than the other initiative. The people hereby declare that they intend that no other changes to existing laws concerning development shall be made by initiative except the ones in this Ordinance. The people do hereby expressly declare that any limitation on General Plan amendments, zone changes, or height district changes, enacted by ordinance or ballot initiative:

(a) Shall not preclude the City’s ability to approve a density bonus pursuant to Government Code Section 65915 and LAMC 12.22.A.25 and/or the incentives and concessions and vehicular parking ratios referenced therein.

(b) Shall not preclude the City’s ability to approve a Project that meets the requirements contained in Section 5 of the Build Better LA Initiative.

Sec. 9. Adoption Date and Effective Dates.

If the City Council approves this measure, or if a majority of the voters pass this Ordinance, it shall become a valid enactment of the City, binding on the City Council and all other City officials, as of the earliest date allowed by law.

Sec. 10. Future Amendments.

Each provision of this Ordinance shall remain in full force and effect for 10 years from the effective date of the Ordinance, unless amended or repealed by a vote of the people. The City Council of the City of Los Angeles may re-enact all of the same provisions, without amendment, following the expiration of 10 years from the effective date of this Ordinance for two successive periods of five years each but failing such action, all such provisions shall terminate automatically and shall thereafter be of no further force or effect provided that any project approved under the provisions of this Ordinance before its expiration shall be allowed to proceed as thereby approved.

Sec. 11. **Severability.**

This Act shall be interpreted so as to be consistent with all federal, state and local laws, rules and regulations. If any section, subsection, subdivision, clause, sentence, phrase or portion of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, the remaining sections, subsections, subdivisions, clauses, sentences, phrases and portions shall remain in full force and effect, and to this end the provisions of this Ordinance are severable. The voters thus declare that they would have passed all sections, subsections, subdivisions, clauses, sentences, phrases and portions of this Ordinance without the section, subsection, subdivision, clause, sentence, phrase or portion held unconstitutional or invalid.