

ORDINANCE NO. _____

An ordinance adding Section 19.20 to the Los Angeles Municipal Code to create the Downtown Community Benefits Fee Ordinance.

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

Section 1. Section 19.20 is added to Article 9 of Chapter I of the Los Angeles Municipal Code to read as follows:

SEC. 19.20. DOWNTOWN COMMUNITY BENEFITS FEE ORDINANCE.

A. Purpose. The Downtown Community Benefits Fee (Downtown CBF) is a voluntary fee paid in exchange for development incentives provided in the Community Benefits Program Subarea of the Downtown Community Plan Implementation Overlay (Downtown CPIO) District and collected to fund public amenities, programs, and services that benefit disadvantaged communities within the Downtown Community Plan Area and the areas within its one and a half-mile radius.

B. Definitions. Whenever the following terms are used in this section, they shall be construed as defined below. Words or phrases not defined in this section shall be construed as defined in Chapter 1A of this Code or the Downtown CPIO.

1. **Applicant** means any individual, person, firm, partnership, association, joint venture, corporation, limited liability company, entity, combination of any of the above, or an authorized representative of any of the above, who submits a proposal for a Downtown Community Benefits Project for consideration to receive funding allocation from the Downtown Community Benefits Trust Fund.

2. **City Planning** means the Los Angeles Department of City Planning.

3. **Community Based Organization** means a nonprofit organization, such as a 501(c)(3), that is representative of a community or significant segments of a community engaged in meeting human, educational, occupational, environmental, housing, public health, or other community needs or offers other needed social services. Organizations can include neighborhood groups and organizations, community action agencies, and community development corporations.

4. **Community Land Trust** means a California nonprofit corporation that is all of the following: (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 includes: (A) a majority of members who are elected by the corporate membership; (B) representation by persons occupying and/or leasing any structural improvements on the land; and (C) 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.

5. **Downtown Community Benefits Area** means the area within the boundaries of the Downtown Community Plan and the area within its one and a half-mile radius. Any site of contiguous ownership that is partially within a one and a half-mile radius of the Downtown Community Plan Area, shall be considered part of the Downtown Community Benefits Area.

6. **Downtown Community Benefits Fee (Downtown CBF)** means the fee calculated pursuant to Subsection C, below.

7. **Downtown Community Benefits Project** means a public amenity, program, or service, authorized for use of the Downtown CBF monies pursuant to Subsection G, below.

8. **Downtown Community Benefits Trust Fund (Downtown CBTF)** means the trust fund established in Section 5.115.19 of the Los Angeles Administrative Code (LAAC).

9. **LADOT** means the Los Angeles Department of Transportation.

10. **LAHD** means the Los Angeles Housing Department.

11. **Low-income Micro-entrepreneur** means a business owner with less than two and a half million dollars in annual gross receipts and no more than 50 employees or shareholders, and who has an annual household income equal to or less than the "low income" category as defined by LAHD.

12. **Metro** means the Los Angeles County Metropolitan Transportation Authority.

13. **Organized Tenant Group** means a group of tenants in a housing development who have formed a nonprofit corporation or organization, or cooperative corporation, which represents the interest of a majority of the tenants in the housing development, and whose purpose includes the acquisition of a

housing development. Such groups can include but are not limited to tenants' associations and tenants' unions.

14. **Resiliency Center** means an area or building designed for free public use as temporary shelters or relief centers, for immediate emergency situations and during future disasters and climate events, including, but not limited to, exceptional heat and cold, heavy rainfalls, earthquakes, wildfires, and unhealthy air quality, which are easily accessible to people experiencing homelessness, youth, seniors, people with disabilities, and other residents at-risk during emergency and climate events.

15. **Sidewalk Vendor Commissary Kitchen** means a "Commissary Kitchen," as defined in Chapter 1A, Article 5, Part 5D, which is approved by the Los Angeles County Department of Public Health to accommodate all operations necessary to service mobile food facilities and is made available exclusively to sidewalk vendors whose annual household income is equal to or less than the "low income" category as defined by LAHD.

16. **Small Legacy Business** shall mean a privately-owned corporation, cooperative, non-profit, social enterprise, or other entity that serves the neighborhood in which it is located by providing needed goods or services for local residents, is not franchised or affiliated with a national chain, and meets at least four of the following standards:

- (a) Has been in continuous operation in the Downtown Community Benefits Area for at least 20 years with no break in its operations exceeding two years;
- (b) Has no more than 50 full-time employees and/or shareholders;
- (c) Has contributed to the neighborhood's history or the identity of a particular neighborhood or community;
- (d) Has one or more employees that can serve multi-lingual members of the community;
- (e) Accepts government issued assistance such as EBT; and/or
- (f) Pays employees a living wage per LAAC Division 10, Chapter 1, Article 11 ("City's Living Wage Ordinance").

C. Downtown Community Benefits Fee (CBF).

1. **Applicability.** A Project located in the Downtown CPIO District Community Benefits Subarea (Subarea A) is eligible to pay the fee (Downtown

CBF) described in this Subsection, provided all applicable requirements in the Downtown CPIO District are met.

2. **Fee Rate.** The Downtown CBF shall be fifty dollars (\$50) per square foot of additional floor area incentive granted, up to the Project's maximum bonus floor area ratio (FAR), subject to an annual adjustment pursuant to Subdivision 4, below.

3. **Time of Payment.** The Downtown CBF shall be paid prior to the issuance of any CPIO Approval for a project seeking development incentives under Section II-6 (Community Benefits Fund Incentive) of the Downtown CPIO District.

4. **Annual Indexing.** The Downtown CBF rate shall be adjusted as follows:

(a) The fee shall be increased (or decreased) as of July 1 of each year by the amount of the percent increase (or decrease) in the Engineering News-Record ("ENR") Building Cost Index for Los Angeles, or other comparable City Building Cost Index as determined by City Planning.

(b) If City Planning determines that the City's Building Cost Index described in Subdivision 1, does not adequately reflect the actual increase or decrease in costs, then City Planning shall recommend to the City Council, based on a written report, that the City Council adopt different cost figures for purposes of this Section. Upon receipt of a report, and after public hearing, the City Council may, by resolution, adopt these different cost figures to be used for the annual adjustment of the Downtown CBF.

5. **Community Benefits Trust Fund.** All Downtown CBF monies shall be deposited into the Downtown Community Benefits Trust Fund (Downtown CBTF), established in Los Angeles Administrative Code Section 5.115.19, and shall be used to award Community Benefits Projects pursuant to this Section.

D. Downtown CBF Oversight Committee.

1. **Establishment.** The Downtown Community Benefit Fund Oversight Committee (Oversight Committee) is hereby established for the purpose of making recommendations for the appropriate disbursement of the monies in the Downtown CBTF consistent with this section.

2. **Membership.** The Oversight Committee shall be composed of members who meet the requirements in the by-laws adopted by the Oversight Committee pursuant to Subdivision 3, below, and the following criteria:

(a) One official or employee, from each of the following City offices or departments:

(i) The Mayor's Office, (appointed by the Mayor);

(ii) The Office of the City Administrative Officer (appointed by the City Administrative Officer);

(iii) The Office of the Chief Legislative Analyst (appointed by the Chief Legislative Analyst);

(iv) City Planning (appointed by the Director of City Planning);

(v) LAHD (appointed by the General Manager of LAHD);
and

(b) Public members, to be appointed as follows:

(i) One public member, appointed by each Council District within the Downtown Community Plan area to serve as representative stakeholders from the Downtown Community Plan area;

(ii) One public member, appointed by the Mayor's Office to serve as a representative stakeholder from the Downtown Community Plan area; and

(iii) Three "lived experience" public members who serve as representatives of Downtown's multiple neighborhoods and have been affected by the affordable housing and eviction crisis. These members will apply and be selected by the other members and shall reside in the Downtown Community Benefits Area.

3. **By-laws.** The Oversight Committee, once comprised, shall adopt by-laws to establish criteria and the process for the appointment and selection of the public members of the Oversight Committee consistent with this Section; Oversight Committee membership terms; meeting schedules; training program(s); application requirements for seeking CBTF monies; procedures for use of awarded CBTF monies; and other roles and responsibilities of the

Oversight Committee.

4. **Authority.** The Oversight Committee shall make recommendations to the City Council on the approval, approval with conditions, or disapproval of a proposed Downtown Community Benefit Project with the recommendation to be based solely upon the degree that the project complies with the findings in Subsection F, below.

5. **Meetings.** This Chief Legislative Analyst shall convene the Downtown Community Benefit Oversight Committee within six months of receipt of Downtown CBF monies into the Downtown CBTF. All Oversight Committee meetings shall be open to the public and comply with the Ralph M. Brown Act (Government Code sections 54950, *et seq.*).

E. Procedures For Awarding Downtown CBTF Funds.

1. **Application.** An application for a Downtown CBTF award for a Downtown Community Benefit Project shall be filed with City Planning. The Director of City Planning shall prepare and make available the application for an award of Downtown CBTF monies, subject to the requirements of the Oversight Committee by-laws, if any.

2. **Oversight Committee Application Review.** The Oversight Committee shall review all applications that comply with any requirements established by the Oversight Committee by-laws.

3. **Oversight Committee Recommendations.** The Oversight Committee may recommend to the City Council to disburse Downtown CBTF monies for any application for which the Oversight Committee has made written findings that meet the requirements of Subsection F. In prioritizing multiple applications during a disbursement period that seek greater monies than available, the Oversight Committee shall give priority to Downtown Community Benefit Projects within the Downtown Community Plan area over those projects in the Downtown Community Benefits Area but outside of the Downtown Community Plan area.

4. **Council Action.** The City Council shall consider any recommendations of the Oversight Committee to disburse Downtown CBTF monies to a Downtown Community Benefit Project. The City Council shall award Downtown CBTF monies by resolution provided monies are available in the CBTF and the Oversight Committee has recommended granting the monies to the Downtown Community Benefit Project with written findings that meet the requirements of Subdivision F.

F. Findings.

Prior to making any recommendation to the City Council for the award of Downtown CBTF monies for a Downtown Community Benefit Project, the Oversight Committee must make all of the following findings, as applicable:

1. The Downtown Community Benefit Project is in conformance with the Downtown Community Plan, zoning, and any other relevant guidelines or other policy documents adopted pursuant to the City Charter or this Code.

2. The Downtown Community Benefit Project is eligible for Downtown CBTF monies as identified in Subsection G, below;

3. The Downtown Community Benefit Project serves a need or service that is not adequately available within one-half mile of the site of the Downtown Community Benefit Project;

4. The Downtown Community Benefit Project is located in the Downtown Community Benefits Area;

5. The Downtown Community Benefit Project is located in an area with a higher "Population Characteristics Percentile" score, as indicated in the "CalEnviroScreen," in comparison to other Downtown Community Benefit Project applications. In the event this score is not available, a proposed Downtown Community Benefit Project in an area with lower educational attainment, higher housing cost burden, higher linguistic isolation, higher poverty, and higher unemployment scores as identified in the most recent American Community Survey data by the US Census Bureau, shall receive priority over other proposed Community Benefit Projects;

6. The applicant has provided adequate assurances, covenants, and/or documentation, to ensure the Downtown Community Benefit Project will do the following, as applicable:

(a) Funds will be expended within three years of receipt pursuant to any process established in the Oversight Committee by-laws.

(b) If Downtown CBF monies are proposed for at-risk affordable units pursuant to Subsections G.1(b) and (c), covenants guaranteeing affordability to acutely low, extremely low, very low, or low income households will be recorded in a manner consistent with Section 9.2.1.H (Records and Agreements) of Chapter 1A of this Code. If existing tenants do not meet the income restriction above, the unit shall not be income restricted until the unit is vacant.

(c) If CBFT is proposed for a Small Legacy Business, the

business while still in operation will maintain the physical features or traditions that define the business, including craft, culinary, or art forms, subject to any term and conditions established in the Oversight Committee's by-laws, including length of commitments or exceptions.

(d) If Downtown CBF monies are proposed for public right-of-way improvements, the improvements received approval, as applicable from LADOT, the Department of Public Works, and Metro.

(e) Any other assurances necessary to accomplish the purpose and objectives of the Downtown Community Benefits Program and this section, consistent with the Downtown CPIO and this section, and any Oversight Committee by-laws.

G. Eligible Community Benefits.

To be eligible to receive funding from the Downtown CBTF, a Downtown Community Benefits Project must be one of the following:

1. A program to support affordable housing, for one of more of the following purposes:

(a) Land acquisition for the purposes of establishing permanent, community-controlled affordable housing, by organizations, such as, Community Land Trusts or similar non-profit organizations whose primary mission is to steward land and property for the benefit of lower income community members;

(b) Acquisition of buildings in default or facing expiring affordability covenants in the next 10 years in order to preserve and extend housing affordability, where qualifying applicants include but are not limited to, owners of the said project; developers; non-profit organizations; Organized Tenant Groups; Community Based Organizations; or LAHD;

(c) Extensions of affordability covenants, set to expire in the next ten years, where qualifying applicants include but are not limited to, non-profit organizations; owners of the project; developers; Organized Tenant Groups; Community Based Organizations; or LAHD;

(d) Construction of new 100 percent affordable housing projects, permanent supportive housing projects, or temporary shelters for people experiencing homelessness; or

(e) Construction of housing projects including accessory dwelling units that serve as “restricted affordable units”, as defined in Chapter 1A.

2. A program to support one or more small legacy and community-serving businesses that meets one of the following criteria:

(a) Rent subsidies to a Small Legacy Business, with priority for a business owned by an individual or individuals with annual household incomes equal to or less than the moderate-income category as defined by LAHD;

(b) Grants for Low-income Micro-entrepreneurs working in the Downtown Community Benefits Area; or

(c) Subsidies for a Sidewalk Vendor Commissary Kitchen.

3. Design and procurement of sidewalk vending carts for donation to sidewalk vendors whose annual household income is equal to or less than the low-income category as defined by LAHD and who work in the Downtown Community Plan area. Vending carts shall comply with the regulations of the City of Los Angeles Sidewalk Vending Program (Section 42.13 of this Code), and any regulations for food vending of the Los Angeles County Department of Public Health.

4. Construction of permanent or temporary Resiliency Centers or conversion of existing buildings or structures to serve as Resiliency Centers. A Resiliency Center eligible for Downtown CBTF monies shall meet the following requirements:

(a) Include free internet access, outlets for emergency cell phone and computer batteries, free and adequate seating, space to provide disaster relief services and distribute emergency supplies, bathroom facilities, clean potable water, and have a dedicated space that can operate independently from the main electrical system of the larger complex. The independent system must have an onsite power system capable of reliably sustaining operations, defined as emergency heating and cooling capability, refrigeration of temperature-sensitive medicines, and emergency lighting, during an extended outage.

(b) During periods of a non-emergency, Resiliency Centers may serve other uses identified in this section.

5. Amenities to serve people who are experiencing homelessness, including, but not limited to, amenities such as hygiene stations, drinking water fountains, shade structures, free electronic device charging stations, no-fee

ATMs, free high-quality wireless internet, and libraries that lend out laptops, tablets, and other internet-ready devices.

6. Mobility and public right-of-way improvements limited to the following:

(a) Projects that enhance safety or connectivity for people walking, bicycling, and accessing transit;

(b) Transit supportive infrastructure, including, access improvements to transit stations (new entrances to above-ground rail stations or portals to underground rail stations, where technically feasible), enhanced bus stops and shelters, protected bike lanes, sidewalks and crosswalk improvements, and other infrastructure that provides key connections to the transit system;

(c) Programs that are or will be identified by any LADOT capital improvement plan for the Downtown Community Plan area; or

(d) Mobility hubs, as specified by LADOT.

7. Parks and open space, limited to the following:

(a) Additions and improvements to existing public parks;

(b) Operations and maintenance of existing public parks; or funds towards land acquisition or capital costs for the creation of new public parks, community gardens, play areas, pocket parks, plazas, walkways, or other types of public open spaces.

8. A program approved by the City Council upon a recommendation by the Oversight Committee that meets the intent of this article and the findings in Subsection F, above.

H. Enforcement. In addition to any other remedy available for a violation of a covenant, binding agreement, or other assurances provided to the City by an applicant to obtain an award of Downtown CBF monies, such a violation is a violation of the Code subject to any and all criminal, civil, and administrative remedies available for a violation of the Code.

Sec. 2. **SEVERABILITY.** If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this ordinance, which can be implemented without the invalid provisions and, to this end, the provisions of this ordinance are declared to be severable. The City Council hereby declares that it would have adopted each and every provision and portion thereof not declared invalid

or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Sec. 3. Any reference to a federal or state statute or regulation in this ordinance shall be to the statute or regulation as written and in effect on the date this ordinance is adopted.

Sec. 4. This ordinance shall be operative on January 27, 2025.

Sec. 5. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

HYDEE FELDSTEIN SOTO, City Attorney

By



KATHRYN PHELAN
Deputy City Attorney

Date November 6, 2024

File No. _____

Pursuant to Charter Section 559, I **disapprove** this ordinance on behalf of the City Planning Commission and recommend that it **not** be adopted.



VINCENT P. BERTONI, AICP
Director of Planning

Date November 7, 2024

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The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than two-thirds** of all its members.

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____