TRANSMITTAL

To:	**THE COUNCIL**	Date:	**05/19/21**
From:	**THE MAYOR**		

TRANSMITTED FOR YOUR CONSIDERATION. PLEASE SEE ATTACHED.

(Matt Szabo) for

ERIC GARCETTI
Mayor

Los Angeles
HOUSING+COMMUNITY
Investment Department

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Eric Garcetti, Mayor
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April 6, 2020

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The Honorable Eric Garcetti
Mayor, City of Los Angeles
Room 300, City Hall
200 North Spring Street
Los Angeles, CA 90012

Attention: Heleen Ramirez, Legislative Coordinator

COUNCIL TRANSMITTAL: INCLUSIONARY ZONING FEASIBILITY STUDY

SUMMARY

The General Manager of the Los Angeles Housing + Community Investment Department (HCIDLA) respectfully requests that your office review and approve this transmittal and forward it to City Council for further consideration. Through this transmittal, HCIDLA requests approval to conduct a feasibility analysis of a citywide inclusionary zoning requirement based on the framework outlined in this report and the attached scope of work.

RECOMMENDATIONS

I. That the Mayor review this transmittal and forward to the City Council for further action;

II. That the City Council, subject to the approval of the Mayor:

A. ADOPT HCIDLA's recommendations for the inclusionary housing feasibility framework as outlined in the proposed phased analysis;

B. AUTHORIZE the HCIDLA General Manager or its designee to conduct and complete the first phase of the feasibility study as outlined in this report;

C. AUTHORIZE $100,000 from the Affordable Housing Impact Trust Fund account to conduct and complete the first phase of the feasibility study as outlined herein

D. AUTHORIZE the HCIDLA General Manager or designee in consultation with the Los Angeles City Planning Department to issue a Request for Bids (RFB) based on the attached scope of work utilizing the CAO's current list of Pre-Qualified Real Estate and Economic Development Consultants;

E. AUTHORIZE the City Controller to establish a new account 43TA44 – Inclusionary Zoning Study and appropriate $100,000 within the City of Los Angeles Housing Impact Trust Fund, No. 59T

F. AUTHORIZE the HCIDLA General Manager or designee to execute a contract with the most qualified bidder that meets the City's requirements for a contract term of two years and eight months, starting August 1, 2021 and ending March 30, 2024 in an amount not to exceed $100,000;

G. DIRECT HCIDLA in coordination with the Los Angeles City Planning Department and City Attorney to report back on contractor recommendation, the findings of the feasibility analysis, including a proposed citywide inclusionary ordinance.

BACKGROUND

Inclusionary zoning, which requires market-rate residential developments to provide a certain percentage of units as affordable, is a common public policy tool for increasing the production of affordable housing and creating more economically integrated communities. An estimated 500 jurisdictions throughout the nation have some form of inclusionary housing – including 78 cities in the Bay Area and 16 cities in Los Angeles County (for a chart comparing the inclusionary zoning ordinances in California's largest jurisdictions refer to Appendix A). Although inclusionary zoning has been implemented by cities throughout California since the 1970s, an appellate court decision in 2009 (Palmer/Sixth Street Properties L.P. v. City of Los Angeles) ruled that inclusionary housing for rental properties was a form of rent control that violated California's Costa Hawkins Act. This court decision discouraged cities such as Los Angeles from pursuing the adoption of new inclusionary ordinances and forced cities with existing inclusionary housing to either revise or pause their programs.

In the past ten years the City has created alternative policies and programs that incentivize affordable housing development, such as the Affordable Housing Linkage Fee, a fee that provides a permanent source of funding for affordable housing; the Transit Oriented Communities (TOC) program as mandated by the passage of the voter approved Measure JJJ; the local Density Bonus program, and several specific plan and community plan implementation overlays (CPIOs), such as the Exposition Corridor Transit Neighborhood Plan and the Cornfield/Arroyo Seco Specific Plan (CASP). Since their adoption, these programs have significantly increased the number of housing developments that include a portion of affordable housing units.

In 2017, the state legislature passed AB 1505 (Bloom), which superseded the Palmer ruling and paved the way for jurisdictions to reinstate paused inclusionary ordinances or develop new mandatory affordable housing policies. With this new law in place, Los Angeles is now able to consider an inclusionary program that complements the existing affordable housing incentive programs, either at a citywide level or through a geographically specific approach. For example, the inclusionary requirement within the Central City

West Specific Plan was recently reinstated and an affordable housing requirement for all new residential construction is being explored for the Warner Center Specific Plan area.

AB 1505 requires jurisdictions to conduct a feasibility analysis prior to adopting any inclusionary ordinance that requires fifteen percent (15%) or more of units to be affordable to households at or below 80 percent of area median income. For this reason, HCIDLA recommends Council approve funding for a market feasibility study that analyzes different options for an inclusionary ordinance that can maximize production of affordable units throughout the City without impeding housing development. This report provides guidance for this study by outlining the need for inclusionary housing in the City, evaluating how an inclusionary housing policy could complement existing policies, and by providing a program framework for analysis.

FUNDING FOR AN INCLUSIONARY ZONING FEASIBILITY STUDY

HCIDLA requested $100,000 for an inclusionary zoning feasibility study from the Housing Impact Trust Fund as part of the Proposed Expenditure Plan for FY 2020-21 Affordable Housing Linkage Fee Budget which is pending approval from the Linkage Fee Oversight Committee, City Council and the Mayor. Since a mandatory inclusionary ordinance would have a potential significant impact on housing production using the Affordable Housing Linkage Fee there is a clear nexus and rationale for using Linkage Fee funds to cover the expense of the inclusionary zoning study. The inclusionary zoning study will also examine the current and potential utilization of affordable housing policies and programs – including TOC, Density Bonus, and geographically specific overlays and affordable housing programs, which currently and will continue to impact Linkage Fee revenue.

PREVIOUS EFFORTS TO ADOPT AN INCLUSIONARY HOUSING ORDINANCE IN THE CITY OF LOS ANGELES

This is not the first time the City has considered an inclusionary zoning policy, in fact the City began to explore this policy over 25 years ago including two more recent attempts in 2002 and in 2008.

In the early 2000s, the City of Los Angeles created a Housing Crisis Task Force to make recommendations on how to best address the critical housing shortage at the time. Part of this effort included a 2002 City commissioned study of the feasibility of inclusionary zoning in Los Angeles. The study reached two major findings: 1) Inclusionary zoning requirements did not have a negative effect on housing and construction in other California cities 2) Inclusionary zoning is economically feasible for most residential building types in Los Angeles when developers receive some type of incentive to offset the costs of providing affordable units. Another study commissioned by the Building Industry Association at the time found that inclusionary zoning increases home prices and causes new home construction to decline. In 2003, the Task Force formally recommended the adoption of an inclusionary zoning citywide policy, but the policy did not move forward for a City Council vote.

In early 2009 prior to the Palmer decision the City considered the adoption of a Mixed Income Ordinance (MIO) that would have required developers of market-rate rental and for-sale properties to set aside income-restricted units in all developments. The Department of City Planning convened a Technical Advisory Committee (TAC) comprised of major developers with expertise in market rate and affordable housing projects to evaluate the financial impacts of said ordinance. Prior to the TAC reaching a conclusion, the *Palmer/Sixth Street Properties L.P. v. City of Los Angeles, 175 Cal. App. 4th 1396 (2009)* (*Palmer*) legal decision was issued and all local efforts to pursue an inclusionary zoning policy were halted. Since the passage of AB 1505, local policymakers and the public have expressed renewed interest in exploring a local inclusionary requirement.

THE NEED FOR INCLUSIONARY ZONING

Due to skyrocketing housing costs and lagging wage growth, Los Angeles is now considered the least affordable housing market in the nation according to the National Association of Home Builders and Wells Fargo's Housing Opportunity Index. Nearly six out of every 10 renters struggle to afford the rent and roughly a third of renter households spend more than half of their income on rent (source: American Community Survey 5-year estimates 2013-2017). As a result of the high cost of housing, Los Angeles has seen an unprecedented spike in homelessness. Since 2015, the number of unhoused people reported in the LAHSA Point in Time Count has increased by 61% from 25,686 to 41,290. A recent report by the UCLA Luskin Center entitled *UD Day: Impending Evictions and Homelessness in Los Angeles* estimates that homelessness and housing insecurity will likely increase dramatically as a result of the COVID-19 public health crisis and the resulting recession. The report finds that approximately 365,000 rental households in the County are now unemployed and an estimated 36,000 households in the County are at extreme risk of homelessness.

Despite recent increases in housing development activity relative to previous years, residential development in the City has not kept up with demand for affordable housing. Since 2013 and with one year left in the planning cycle, the City has exceeded its market rate housing production goals by over 250% but has built less than a third (29%) of the State mandated low- and very low-income units. Although the percentage of affordable housing produced in the City has grown in recent years, based on data from the City's Annual Progress Report (APR), of all the units permitted in 2019, only 9% were affordable. In order to meet the most recent housing goals established by the State, the City will need to substantially increase the number of affordable housing units produced each year. On average, the City has permitted approximately 1,450 new affordable housing units per year. Based on the most recent final Regional Housing Needs Allocation (RHNA) allocation of 456,643, the City will need to permit over 32,000 affordable units (up to 120% AMI) per year for eight years in order to adequately address the City's current and future housing needs.

In addition to an affordable housing crisis, the City of Los Angeles also faces high rates of racial and economic segregation. According to the City's adopted Assessment of Fair Housing Plan, nearly 390,000 city residents lived in racially concentrated areas of poverty including 15% of all Black households and 20% of all Latino households. Subsidized, 100% affordable housing developments provide much needed quality housing in neighborhoods that have experienced generations of disinvestment and income-restricted developments mitigate the effects of displacement in gentrifying areas. While the development of affordable housing in lower-cost areas of the city can help preserve affordability in rapidly gentrifying neighborhoods, it could also perpetuate existing patterns of racial and economic segregation. Although the City and State have adopted various policies to incentivize affordable housing developments in higher resource areas, insufficient public subsidies, higher land costs, lack of multifamily zoning, and neighborhood opposition, have often prevented subsidized housing developments from being located/sited? more equitably throughout the city (see Appendix B for a map of the current distribution of affordable housing Citywide and the Fair Share Report Back, CF-190416 for further discussion).

In order to produce more unsubsidized affordable housing units and create more economically and racially integrated neighborhoods, the City of Los Angeles has developed a number of land use incentives to reward or entice market-rate development to include a certain percentage of units as affordable. Both the Density Bonus and Transit Oriented Communities (TOC) programs allow developers to receive greater density or other land use incentives in exchange for a percentage of affordable units. The city's Affordable Housing Linkage Fee also incentivizes developers to build affordable units onsite for projects that provide sufficient numbers of affordable units to qualify for the fee exemption. Due to these incentives and other land use programs and requirements, the number of unsubsidized affordable housing units permitted from 2015-2019 has increased by over 200% over the previous five-year period.

The Transit Oriented Communities program has received applications for approximately 30,000 new units (proposed), of which over 6,000 are proposed/projected to be affordable to lower-income households.

Despite the success, existing affordable housing incentive programs have limitations. Both density bonus and TOC have set affordability requirements for the whole city that do not vary by market area. Additionally, TOC is a voter-approved measure that will expire in 2027 and is only applicable in areas with high quality transit. Studying the feasibility of establishing a citywide or geographically specific affordable housing requirement that complements existing programs will allow the City to develop a more nuanced and geographically specific approach to maximizing inclusive affordable development and create a permanent program that can expand on the TOC production incentives.

POTENTIAL IMPACTS OF INCLUSIONARY ZONING

One concern that always arises when developing an affordable housing program that tries to capture the value of development incentives to increase affordable production is the balance between impeding development and creating affordability. This is one of the reasons why the law requires that each inclusionary program must have a feasibility study to determine the impact on production and the benefits to the community. A 2016 literature review of inclusionary zoning research conducted by the Center for Housing Policy found that, "the most highly regarded empirical evidence suggests that inclusionary housing programs can produce affordable housing and do not lead to significant declines in overall housing production or to increases in market-rate prices." However, the study cautioned that inclusionary policies depend on local economic and housing market conditions and must be carefully calibrated to ensure success and avoid adverse effects.

INCLUSIONARY HOUSING IN OTHER CALIFORNIA JURISDICTIONS

As mentioned previously, many cities in California have inclusionary housing requirements. HCIDLA examined the inclusionary housing ordinances of several jurisdictions and prepared a comparison chart that details the affordability requirements for 13 of the largest jurisdiction's inclusionary housing ordinances. HCIDLA also conducted interviews with staff from San Jose, San Rafael, Santa Monica, San Francisco, and the County of Los Angeles to better understand the inclusionary zoning requirements in those jurisdictions.

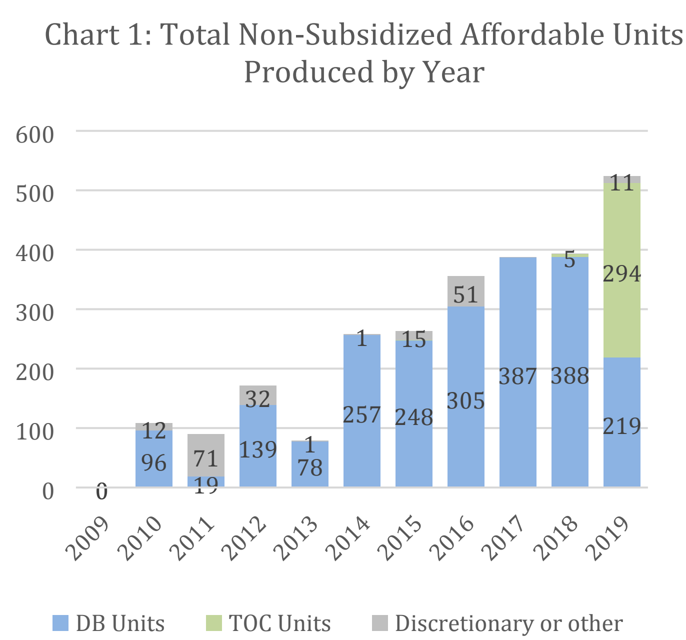
The comparison chart, which is included in Appendix A, shows the diversity of inclusionary ordinances throughout the state. For example, the City of Berkeley and downtown Santa Monica require that at least 20% of all rental units be affordable, whereas Fremont and San Diego have inclusionary requirements of less than 15%. Jurisdictions' inclusionary ordinances also differ significantly with regard to the income targeting requirements for affordable units. For example, Los Angeles County, Santa Monica, and San Bruno allow developers to choose fewer units at deeper income targeting, San Diego simply requires a 10% requirement at 65% AMI, and San Jose and Fremont both require a mix of very low- and low-income units. The experience of cities across California indicates that a properly calibrated inclusionary housing requirement will not stop or deter development. For example, in 2018 the City of San Diego permitted 3,895 units in 2018 and has produced 85% of its above market RHNA goal with two years left in its cycle.

ENSURING INCLUSIONARY REQUIREMENTS COMPLEMENT EXISTING AFFORDABLE HOUSING INCENTIVES, POLICIES, AND PROGRAMS

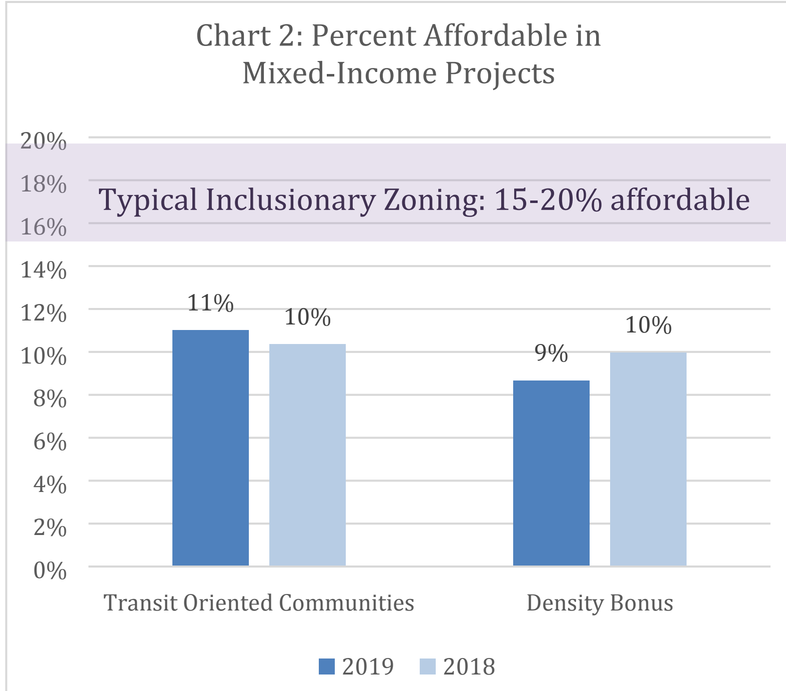
Any mandatory inclusionary housing ordinance considered by the City would have to complement the City's existing affordable housing incentives, fees, and regulations - including the Affordable Housing Linkage Fee, the City and State Density Bonus programs, Measure JJJ, and the TOC Program. A citywide inclusionary ordinance should also complement and provide guidance to the existing Community Planning Process.

Land Use Incentive Programs

As mentioned previously, the City has several land use incentive programs that require a certain percentage of affordable units. The Density Bonus (DB) program, which allows for up to a 35% density bonus for any project with five or more units, is established through state law and prohibits any local density bonus program from undermining the incentives established through the state's program. The City of Los Angeles also plans to update its local density bonus program to provide additional benefits beyond what is required under state law. In addition to the Density Bonus program, the City of Los Angeles also allows developments located near high quality transit to benefit from a 50% to 80% density bonus if the project includes 8% to 25% affordable units (depending on affordability level and size of density bonus requested). This program, called Transit Oriented Communities (TOC), was established through the implementation of Measure JJJ, which was passed by the voters in 2016. Measure JJJ also establishes affordability requirements for projects seeking a change in the underlying zone or General Plan land-use designation.



The Density Bonus and TOC programs are very popular in the City and from 2016-2019 the City has permitted over 1,500 affordable units in mixed-income, unsubsidized developments. As shown in Chart 1, the number of permitted affordable units has steadily increased in recent years and in 2019 there were 524 non-subsidized permitted affordable units, a 33% increase from the prior year. The increase in non-subsidized affordable housing is due in large part to the creation of the TOC program in 2018, which has resulted in 299 permitted unsubsidized affordable units as of December 31, 2019.



The percentage of affordable housing required to receive a density bonus is typically lower than what most jurisdictions require under an inclusionary ordinance. The minimum amount of affordable housing required under TOC Tier 4 is 11% extremely low-income and the minimum amount to receive the maximum density under density bonus is 11% very low-income (which is calculated on the base, not the total number of units). Based on HCIDLA's Land Use Covenant Data, of the mixed-income projects proposed in 2019, 9% of the total units generated through Density Bonus were affordable and 11% of units generated through TOC were affordable. This indicates that developers choose to build the least number of units at the deepest affordability levels. As a result, 93% of the mixed-income Density Bonus units covenanted in 2019 were for very low-income households (the lowest income bracket targeted by the program). Similarly, 89% of 2019 mixed-income TOC affordable units were restricted to extremely low-income households (the lowest income bracket targeted by that program). Allowing developers to provide fewer units at deeper affordability, helps the City address the needs of the lowest income households, but results in fewer net affordable units being produced and less income diversity in those projects.

A feasibility analysis for an inclusionary zoning ordinance should carefully consider how existing land use incentives interact with a potential inclusionary requirement and prepare a detailed recommendation on whether to assess the inclusionary requirement on the base or total density for local incentive programs.

Affordable Housing Linkage Fee

In 2017, the City adopted an Affordable Housing Linkage Fee ordinance with the intent of increasing the supply of affordable housing. The Ordinance places a fee on new residential development (ranging from $1.04 to $18.69 per square foot, depending on the market area) and new non-residential developments (ranging from $3.11 to $5.19 per square foot, depending on market area). Revenue from the Affordable Housing Linkage Fee is used to fund affordable housing production and preservation and support low and moderate-income homeownership.

The Affordable Housing Linkage Fee is not an inclusionary ordinance and as such the fee amount and legal justification for the fee are not based on covering the cost of an affordable housing unit. The amount of the Linkage Fee is focused on offsetting the increased demand for affordable housing that results from new commercial and residential construction. The City has to wait to accumulate sufficient Linkage Fee revenue over time before allocating the funds to an affordable housing project. In contrast, an inclusionary housing in-lieu fee is usually calculated based on the cost of subsidizing a unit to make it affordable.

Inclusionary in-lieu fees are typically higher than Linkage Fees and provide a greater incentive for developers to build units on site.

To incentivize onsite affordable housing units, the Affordable Housing Linkage Fee (AHLF) ordinance provides a fee exemption for developers who include between 8%-40% of a development's units as affordable (depending on the affordability level). However, because TOC projects are generally exempt from the AHLF and many Density Bonus projects can qualify for an exemption with the addition of a few more affordable units, developers may be more incentivized to use the incentives now that the Linkage Fee is in full effect. A recent report by BAE Urban Economics ("BAE") prepared for the Affordable Housing Linkage Fee Oversight Committee estimates that there have been more housing development projects receiving affordability exemptions in 2019 than previously anticipated. The report found that while multifamily residential construction has increased by an estimated 22% from 2017 to 2019, the amount of multifamily construction eligible for affordability exemptions has increased by an estimated 25% during the same time period.

Adding a mandatory inclusionary ordinance as an available tool for the City to address the affordability crisis may reduce Affordable Housing Linkage Fee revenue since more projects will qualify for exemptions, however, the value of more units on site will likely exceed the foregone revenue. For example, based on an analysis conducted by BAE for the Affordable Housing Linkage Fee Oversight Committee, the average multifamily development pays $22,000 in linkage fees. Given the average subsidy to build and operate affordable housing of $150,000, it would take approximately seven multifamily developments to produce sufficient local subsidy for one unit of affordable housing. Careful analysis must be done to consider how a mandatory inclusionary requirement could complement the existing Linkage Fee and the existing land use incentives while still providing an added benefit to the City that allows for the maximum production of affordable housing either through collection of fees or on-site inclusion.

The Community Plan Update Process

Affordable housing land use requirements and incentives can also be established through the community plan or specific planning process. Through the update of the city's 35 Community Plans, City Planning is developing local incentive programs to encourage affordable housing by coordinating with, and in some cases, replacing the citywide TOC programs. Inclusionary zoning requirements can be included as part of a community planning update process or through a specific plan area within a community plan (as currently exists in Central City West and is also being studied in Warner Center through CF 13-0197-S9). Because Community Plans are updated on a rolling basis and often take years to complete, HCIDLA recommends that the feasibility study evaluate the creation of a citywide affordability requirement that can establish a base set of requirements for each community plan area. During the Community Plan update process, neighborhood residents can advocate to expand or modify their local inclusionary ordinance as long as it meets the minimum standards established citywide and does not significantly impede market-rate development.

PROPOSED FRAMEWORK FOR AN INCLUSIONARY ZONING FEASIBILITY STUDY

Based on an evaluation of the City's current incentives and an extensive review of other jurisdictions' inclusionary zoning ordinances, HCIDLA recommends that the study be based on the following framework:

- **The study should recommend the optimal ratio of affordable to market rate units that ensure the most opportunities for residents in need of assistance without suppressing overall housing production. This analysis must also consider the use of various incentives currently used in City programs including but not limited to density increases, streamlined approvals, parking reductions, land donations, or fee waivers.**

- **Evaluate an "and" instead of "or" approach to the affordability levels:**
  In developing an inclusionary housing requirement, the City of LA could choose to require a different proportion of affordable units depending on the level of affordability for each unit (an "or approach) or it could require a set mix of different affordability levels (an "and approach").

  For example, the City of Santa Monica adopted an "or" approach by requiring that 5% extremely low-income, 10% very-low income, 20% low income, **or** 100% Moderate. This is similar to how LA City currently structures TOC, Density Bonus, and other incentive programs. Alternatively, the City could require a mix of affordability levels (the "and approach"). San Francisco, Pasadena, Freemont and San Bruno all adopt this approach and require a set percent at each targeted affordability level. For example, San Francisco requires 10% very low income, 4% low income, and 4% moderate for a combined 18% requirement. Similarly, Fremont requires 2.4% extremely low income, 4.2% very low income, 3.2% low-income, and 3.1% moderate income for a combined inclusionary requirement of 12.9%.

  LA County's recently approved inclusionary ordinance encourages an "and" approach by using average affordability. For example, 10% of units to have an average affordability of 40% AMI or less (which allows for a mix of Extremely Low and Very Low Income Unit) or 15% have to have an average affordability of 65% (which allows for a mix of Low and Very Low Income Units).

  HCIDLA Recommendation: HCIDLA recommends exploring the feasibility of an "and" rather than "or" approach to affordability levels. Based on a review of the outcomes of our existing affordable housing incentives, developers typically opt to build the minimum number of units at the lowest affordability threshold to achieve the maximum available incentive (as discussed previously). Based on the cities we spoke with, this "and" rather than "or" approach can result in more income diversity within a project and can provide a greater range of housing options.

- **Maximize onsite affordable housing units**
  Due to various existing market conditions throughout the state, the total percentage of affordable housing units required on site varies significantly between jurisdictions, as shown in Appendix A. For example, LA County adopted a 20% low-income inclusionary requirement (for rental projects over 20 units) whereas the City of South San Francisco requires just 10% of units to be set aside for low-income households. Very few jurisdictions have a total inclusionary requirement that is less than 10%, since doing so may present significant administrative cost for little added value.

  HCIDLA recommendation: HCIDLA recommends that the feasibility study evaluate a net on site inclusionary requirement of at least 20% which would ideally include a mix of various income levels.

- **Include sensitivity to market areas:** Most jurisdiction with an inclusionary zoning have a set requirement for the entire jurisdiction, however, some cities have specific zones or areas that have either higher or lower affordability requirements. For example, the City of Santa Monica has a higher requirement for its downtown area than for the rest of the city. Los Angeles County's new inclusionary zoning requirement also includes different affordability requirements for for-sale projects depending on submarket area.

HCIDLA recommendation: Given the size of Los Angeles, HCIDLA recommends analyzing a citywide inclusionary requirement that is sensitive to different market areas within the City, similar to the linkage fee. Based on the feasibility study, this may result in a higher net requirement for areas that can command higher rents or higher sales prices.

- **Complement existing affordable housing incentives and requirements**
  As discussed previously, the City of Los Angeles has various citywide and community-based affordable housing incentives. One part of the City, Central City West, also has an existing inclusionary housing requirement. The Transit Oriented Communities program, in particular, has generated unprecedented numbers of applications for market rate units with extremely low income units onsite in areas around high quality transit hubs.

  HCIDLA recommendation: The feasibility study should carefully analyze how any new affordability requirements may impact existing affordable housing incentives and requirements with the goal of maximizing housing production and affordable unit production in all parts of the City.

- **Assess feasibility by project size**
  The feasibility of a project to absorb below market-rate units significantly depends on the size of the project, particularly because smaller projects may not be able to use land use incentives to offset the cost of providing affordable housing. For this reason, most cities have a minimum project size as part of their inclusionary housing program.

  HCIDLA recommendation: HCIDLA recommends exploring the feasibility of onsite affordable housing requirements for projects of all sizes. Based on the results of the study, Council can decide if smaller projects should be exempted from the on-site requirements.

- **Establish different standards for homeownership and rental housing developments**
  Most jurisdictions with inclusionary housing requirements have one set of requirements for rental housing and one set of requirements for homeownership housing.

  HCIDLA recommendation: To the extent feasible, HCIDLA recommends a rental housing requirement that includes a range of income levels from 30% to 120% AMI, with targets tied to the unmet housing needs in the Regional Housing Needs Assessment goals for each income category. Requirements for homeownership projects should include higher income, specifically low or moderate-income targeting since the cost of taxes, maintenance, and fees often makes homeownership inaccessible to extremely and very low income households.

- **Promote lasting affordability** Affordable housing produced through an inclusionary housing ordinance must, at the minimum, require a 55-year covenant.

PROPOSED FEASIBILITY PHASED ANALYSIS

Due to the myriad of complexities of developing an inclusionary zoning ordinance in an ever-changing regulatory and economic landscape, HCIDLA recommends a two phased-approach for completing the feasibility study. In the first phase of the analysis, the contractor selected through the request for bids process will complete a detailed study of the existing market conditions in various parts of the city. This will include a complex economic analysis detailing the projected utilization of existing affordable housing programs (including TOC, Density Bonus, and the Affordable Housing Linkage Fee) and the potential value added of a mandatory inclusionary requirement. Phase 2 of the feasibility analysis will build upon Phase 1 and provide concrete policy recommendations including the percent of affordable housing that could be required in each market area of the City.

HCIDLA estimates a total cost of up to $400,000 for completing the two phases of the feasibility study as outlined above. For purposes of this report, HCIDLA recommends an allocation of $100,000 for the first phase of the feasibility study from the Affordable Housing Linkage Fee (Housing Impact Trust Fund) upon the approval of this funding request by the Affordable Housing Linkage Fee Oversight Committee, City Council and Mayor.

Charter 1022 Determination

On February 2, 2021, pursuant to the provisions of Charter Section 1022, HCIDLA requested a determination from the Personnel Department, whether or not the City currently has staff available to perform the required services sought under the request for bids for consulting services related to the completion of the inclusionary zoning feasibility study. The request is currently under review by the Personnel Department.

CONCLUSION AND SUMMARY

The current housing and homelessness crisis necessitates that the City explore every option available for producing more affordable housing. Inclusionary zoning, which is now explicitly permitted under state law, is a critical tool employed by cities throughout the nation to produce unsubsidized affordable housing and facilitate more mixed-income development. A carefully conducted feasibility analysis that accounts for existing affordable housing policies and meets the framework described in this report, will assist the City in deciding how to proceed in developing a thoughtful and impactful inclusionary zoning ordinance.

FISCAL IMPACT STATEMENT

There is no impact to the General Fund. HCIDLA has requested $100,000 from the City of Los Angeles Housing Impact Trust Fund No.59T as part of the Affordable Housing Linkage Fee Budget, subject to the approval of the Proposed Expenditure Plan for FY 2020-2021 by the Linkage Fee Oversight Committee, City Council and the Mayor.

Attachment A

REQUEST FOR BIDS TO PROVIDE AN ECONOMIC ANALYSIS ON THE IMPACT OF AN INCLUSIONARY HOUSING ZONING ORDINANCE IN THE CITY OF LOS ANGELES

INTRODUCTION AND PURPOSE OF RFB

The City of Los Angeles is requesting bids from a prequalified list of on-call consultants to conduct a market feasibility analysis of a citywide inclusionary housing requirement. The consultant, under the oversight of the Housing and Community Investment Department (HCIDLA), shall work with City staff, and other relevant stakeholders as needed to accomplish the Scope of Work. The consultant selected shall effectively manage all tasks related to the scope of work and provide timely updates to HCIDLA staff through regularly scheduled calls or in person meetings. Bids to perform these services are requested from consultants prequalified to perform economic analysis for the City of Los Angeles, as approved by the City Council (C.F. 12-1549).

BACKGROUND

Affordable housing is one of the biggest concerns facing the City of Los Angeles and its residents. Despite new funding sources such as the Affordable Housing Linkage Fee and Proposition HHH, affordable housing production in the City has not kept pace with the ever-increasing demand. Land use incentives such as the Transit Oriented Communities program have also faced growing criticism for not requiring more affordable units in mixed-income developments, particularly in the higher market areas of the City. With changes to state law, cities throughout California have increasingly looked to mandatory inclusionary zoning as a way to produce unsubsidized affordable housing units and address residential and economic segregation.

SCOPE OF WORK

The objective of the study is to provide policy guidance for a potential citywide inclusionary housing ordinance using the framework adopted by the Los Angeles City Council.

Phase 1 of the Feasibility Study

Task 1: Assess how any proposed inclusionary housing requirement may impact and interact with existing affordable housing incentive programs and/or any other incentives in the City such as parking density increases, streamlined approvals, parking reductions, or land donations.

The City of Los Angeles has several existing affordable housing policies and programs that must be taken into account when developing policy recommendations for an inclusionary housing requirement.

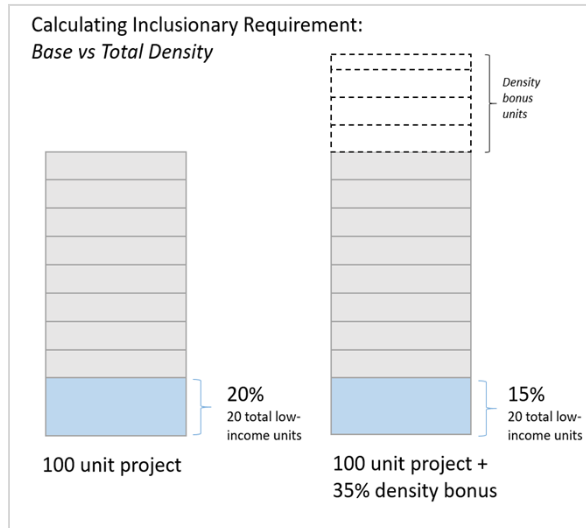
- An overview of the existing affordable housing policies in Los Angeles including density bonus, TOC, Measure JJJ, Affordable Housing Linkage Fee exemptions, community plan housing programs, specific plan housing programs, and affordable housing replacement requirements.
- An analysis of utilization trends for each incentive program by market area
- A detailed analysis of how an inclusionary policy would work with each existing policy with particular focus on whether or not inclusionary units could "double count" to fulfill other program or policy requirements and what the potential net result of affordable housing would be.

Anticipated Deliverables:

- Draft analysis and recommendations
- Final analysis and recommendations

Task 2: Assess the potential impact of an Inclusionary Zoning requirement on affordable housing production
Provide a detailed analysis of the net impact an inclusionary zoning ordinance would have on affordable housing production both citywide level and in specific geographic areas.

- Conduct an economic analysis to determine if additional value capture (beyond the existing incentives) is feasible
- Disaggregate the analysis to provide market-area and community plan level analysis
- Develop preliminary recommendations for the percent of affordable housing that could be accommodated without significantly impacting project feasibly
- Analyze the net impact or "value add" while adjusting for incentive utilization. For example, if the inclusionary requirement is 20% but a project uses density bonus the net percent affordable may be 15% or lower (see diagram).



Anticipated Deliverables:

- Draft analysis and recommendations
- Final analysis and recommendations

Task 3: Assess the basic financial feasibility of various inclusionary requirements
Complete an initial market assessment to analyze the economic impact of an inclusionary housing ordinance that follows the framework outlined in the attached report adopted by city council. As such, the study should:

- Include an analysis of several mixes of on-site affordable housing requirements at varying income targets
- Factor in existing incentive programs including density bonus, TOC, Measure JJJ, Affordable Housing Linkage Fee into the analysis
- Aim to maximize the net percentage of onsite affordable housing units
- Be sensitive to the different market areas in the city
- Be sensitive to the size of projects
- Include a different analysis for rental and homeownership projects
- Include a discussion of maximizing lasting affordability

This task may include:

- A high-level analysis of the City of Los Angeles' real estate market both citywide and in different areas of the city, including development trends, comparison of development costs and lease/sales prices for different types of development.

- Initial modeling using basic pro-forma feasibility testing for a few of the most common housing and mixed-use development typologies found in the City of Los Angeles and the city's submarket areas

Deliverables:

- High level modeling for an initial assessment of financial feasibility
- Initial recommendations both citywide and by market area regarding the percentage of affordable units by AMI level that can be feasibly required through an inclusionary zoning ordinance

Task 4: Provide conclusions and policy recommendations.
Provide high-level conclusions, policy recommendations, and analysis of next steps and additional research needed for Phase 2 of the study.

Deliverables

- Written report summarizing key findings and analysis and providing recommendations and conclusions
- PowerPoint presentation with initial findings and conclusions

<u>Phase 2 of the Feasibility Study</u>

Task 1: Complete a more detailed and defensible feasibility analysis by market areas
Complete a thorough market assessment to analyze the economic impact of an inclusionary housing ordinance that follows the framework outlined in the attached reported adopted by city council. As such, the study should:

- Include an analysis of several mixes of on-site affordable housing requirements at varying income targets
- Aim to maximize the net percentage of onsite affordable housing units
- Be sensitive to the different market areas in the City
- Be sensitive to the size of projects
- Include a different analysis for rental and homeownership projects
- Include a discussion of maximizing lasting affordability

This task may include:

- A deep analysis of the City of Los Angeles' estate market both citywide and in different areas of the city, including development trends, comparison of development costs and lease/sales prices for different types of development.
- Complete detailed pro forma analyses of all of the most common housing and mixed-use development typologies citywide and by market area
- A detailed pro forma analyses of all of the most common housing and mixed-use development typologies citywide and by market area
- Potential feasible affordable housing onsite set-aside requirements for rental housing at various income levels, specifically analyzing requirements with a mix of Low Income and Moderate Income affordability levels.

- Potential feasible affordable housing onsite set-aside requirements for homeownership housing at various income levels, specifically analyzing requirements with a mix of Low Income and Moderate Income affordability levels.
- The point at which the affordable housing requirements may create a "tipping point" for different kinds of development and, therefore, impact the amount of affordable housing able to be created
- Analysis and summary of previous efforts in the City of Los Angeles to adopt an inclusionary ordinance
- Literature review and research on other inclusionary zoning programs in the state –including best practices

Anticipated Deliverables:

- Draft of affordable housing requirement scenarios, including target income levels for a citywide inclusionary requirement
- Draft of affordable housing requirement scenarios, including target income levels for an inclusionary requirement that varies by market areas
- Final draft of affordable housing requirement scenarios
- Case studies or samples

Task 2: Conducted a detailed analysis of Assess how any proposed inclusionary housing requirement may impact and interact with existing affordable housing incentive programs

The City of Los Angeles has several existing affordable housing policies and programs that must be taken into account when developing policy recommendations for an inclusionary housing requirement.

- An overview of the existing affordable housing policies in Los Angeles including density bonus, TOC, Measure JJJ, Affordable Housing Linkage Fee exemptions, community plan housing programs, specific plan housing programs, and affordable housing replacement requirements.
- An analysis of utilization trends for each incentive program by market area
- A detailed analysis of how an inclusionary policy would work with each existing policy with particular focus on whether or not inclusionary units could "double count" to fulfill other program or policy requirements and what the potential net result of affordable housing would be.

Anticipated Deliverables:

- Draft analysis and recommendations
- Final analysis and recommendations

Task 3: Develop an analysis of alternative forms of compliance such as off-site housing or an in-lieu payment option

State law requires inclusionary zoning policies to provide at least one form of alternative compliance. As such, the study should include detailed recommendations on a potential in-lieu fee payment comparable to the full cost of providing a unit onsite. The study may also include an analysis of other forms of alternative compliance the City could explore. This task may involve:

- Updating existing in-lieu fee studies
- Reevaluating the adjustment mechanism for the in-lieu fee, frequency of future adjustments, and what future adjustments should be based on (construction costs, housing prices, inflation, etc.).

Anticipated Deliverables:

- Draft in-lieu fee recommendations
- Final in-lieu fee recommendations

Task 4: Provide conclusions and policy recommendations.

The City of Los Angeles has recently adopted ordinances and policies related to affordable housing. This task will outline how the recommended inclusionary housing policy recommendations will interact with those citywide requirements and policies.

This Task may include investigating the following:

- Which affordable housing share requirement and what levels of affordability would most feasibly accomplish the mixed-income outcome desired and in combination with which alternative compliance option(s)?
- Assess the interaction of any requirement or fee with current and proposed incentives, requirements, and/or streamlining measures at the citywide level, particularly the Affordable Housing Linkage Fee.

- Other policy consideration and recommendations as deemed necessary.

Anticipated Deliverables:

- Draft comprehensive recommendations
- Final comprehensive recommendations

SCHEDULE

The contract work should be completed within a six-month period. In order to be considered for selection, bidders must include a preliminary project schedule in the proposal. The schedule shall be refined at the initiation of the project, if necessary.

REQUIRED TECHNICAL EXPERTISE

HCIDLA recommends that responses to this bid demonstrate a track record of innovative approaches and solutions.

Bidders should also demonstrate their:

- Ability to start the project immediately upon contract award and receipt of the Notice to Proceed;
- Ability to develop an achievable work plan and meet or exceed project deadlines as outlined in the project schedule; and
- Proven record of submitting project deliverables in a timely manner

COMPENSATION

Compensation for the complete and satisfactory performance of such services shall not exceed $100,000 in funding.

TERM OF CONTRACT

The term of this contract shall be for a period of two years and three months. It is anticipated that the contract term will begin on or about August 2021.

EVALUATION CRITERIA

The Consultant shall provide responses to this RFB that allow evaluation using the following criteria. Evaluation of the bids will be weighted as follows:

35% CAPABILITY AND AVAILABILITY

- Capability and availability of Consultant's Project Team to provide the scope of services and the Team's technical expertise and experience as it relates to the scope of the project as demonstrated by the solicitation response.
- Ability to collect data, generate useful analysis and develop creative solutions.
- Soundness of technical approach for each deliverable.
- Availability to complete the work within a reasonable timeframe and manage complex efforts.

30% EXPERIENCE AND PERFORMANCE

- Experience leading efforts of a similar or related nature.
- Consultant Project Team's knowledge of City policies, procedures, and practices.
- Past performance working as a consultant to deliver projects of similar scope with respect to quality, adherence to set budget and schedule.

20% QUALIFICATIONS

- Experience, qualifications and percentage of Consultant Project Manager’s time dedicated to project management responsibility and oversight; and
- Qualifications of available staff for the tasks as outlined in the Scope of Work.

15% VALUE

- The value offered to the City considering cost of the contract in comparison to professional capabilities and experience of the Project Team.
- Demonstrates innovation and cost-effectiveness in the approach to the tasks.

EVALUATION PROCESS AND SELECTION

Submittals will be evaluated by an Evaluation Committee based on the aforementioned selection criteria. HCILDA reserves the right to interview firms to further appraise their qualifications. The evaluation criteria will allow HCID to examine the qualifications of the Consultant, all proposed staff and the ability to meet the program needs described in the Scope of Work.

Please include the Project Manager designated for this work, the name of any subcontractor intended to perform any of the tasks, proposed generalized schedule, deliverables, and a cost breakdown for each task and deliverable in your proposal. Please only include subcontractors listed on your “Schedule (A) List of Potential Subconsultants” document.

DISCLOSURE OF BORDER WALL CONTRACTING ORDINANCE

Any contract awarded pursuant to this RFB is subject to the disclosure requirements of the Disclosure of Border Wall Contracting Ordinance (DBWCO), LAAC Section 10.50 et seq. As part of their proposal to the City, bidders shall complete and upload a DBWCO Affidavit to labavn.org.

Bidders seeking additional information regarding the requirements of the DBWCO may visit the Bureau of Contract Administration's web site at http://bca.lacity.org.

SUBMITTAL DEADLINE AND CONTACT INFORMATION

Bids for the requested services should be dated and signed by an authorized signatory. All bids must include the signatory's full address, telephone number, and email address, include responses to the Bid Requirements and be emailed no later than **[date/time]** to: hcidla.contractsprocurement@lacity.org. Please include in the subject line the following: **"CITYWIDE INCLUSIONARY FEASIBILITY ANALYSIS".**

Please submit your bid no later than 5:00 p.m. on XXXXX, XXXXX XX, 2021 No bids will be accepted after this date and time. Bids received past the deadline will be deemed unresponsive and will be disqualified.

Should you have any questions regarding this request for bids, please send them with the subject heading *"Question(s) on Request for Bids – Citywide Inclusionary Feasibility Analysis"* via email to hcidla.contractsprocurement@lacity.org.

Approved By:

ANN SEWILL
General Manager
Housing+Community Investment Department

ATTACHMENTS:

Appendix A: Inclusionary in Other Jurisdictions
Appendix B: Distribution of Affordable Housing

Appendix A: Inclusionary Housing in Other California Jurisdictions

Inclusionary Rental Requirements

	ELI	ELI	VLI	VLI	VLI	LI	LI	Mod	Mod	Mod	
AMI Level	**30%**	**40%**	**50%**	**55%**	**60%**	**65%**	**80%**	**100%**	**110%**	**120%**	**Total**
LA County (20 + Units)		10% or				15% or	20%				10-20%
LA County (Less than 20 units)		5% or				7% or	10%				5-10%
Santa Monica (Downtown)	20% or		20% or				or 30%	or 30%			20-30%
Santa Monica	5%** or		10% or				20% or			100%	5-100%
San Jose 20+ units (onsite)			6% and				9%				15%
San Jose (20+ units (offsite))			8% and		12%						20%
San Diego (2+ units)						10%					10%
San Francisco* (10-24 units)				13.5%							13.5%
San Francisco* (25+ units)				12.5% and			4% and		4%		20.5%
San Bruno			6%				4.5%	4.5%			15%
Fremont	2.4% and		4.2% and			3.2% and		3.10%			12.90%
Berkeley (5+ units)					10% and		10%				20%
Pasadena				5%			10% and	5%			20%
South San Francisco (5+ units)			5% and				10%				15%
Glendale (8+ units)							15%				15%
Pomona (on-site)								13%			13%
Pomona (off-site)								15%			15%
Long Beach* **			5%								5%

*Beginning on January 1, 2018 and each subsequent year, the LI inclusionary requirement will increase by .5% for developments with 10-24 units until this requirement reaches 15%. Beginning on January 1, 2020, the inclusionary requirement for developments with 25 or more units (owned or rented) will increase by .5% until the requirement reaches 26% for projects with ownership units or 24% for projects with rental units, with these units allocated equally for moderate and middle-income households.

** Option currently suspended according to website as of 3/6/2020. From what could be gleaned from the code, the option applies to projects approved prior to March 26, 2019 or after November 27, 2020. Seems to apply only to rental projects, but unclear. Still appears to be suspended as of 3/2/2021.

*** The requirements will be phased in over a three-year period—rentals at 5% VLI in calendar year 2021 and 6% VLI in 2022 with the full 11% required in 2023

Inclusionary Ownership Requirements

	ELI	VLI	VLI	LI	LI	Mod	Mod	Mod	Mod	Mod	Mod	Total
AMI Level	30%	50%	55%	65%	80%	100%	105%	110%	120%	130%	135%	
LA County (Coastal South, South, East) – 20 + Units											20%	20%
LA County (Coastal South, South, East) – less than 20 units											10%	10%
Santa Monica (Downtown)	20% or	20% or			or 30%	or 30%						20-30%
Santa Monica 2-3 units (onsite)	May pay Affordable Housing fee instead of dedicating an onsite of offsite unit as affordable											
Santa Monica 4-15 units (onsite)	5% (if rented)	10% (if rented)			20% (if rented)				20% (if sold)			20%
Santa Monica 16+ Units (onsite)	10% (if rented)	15% (if rented)			25% (if rented)				25% (if sold)			25%
Santa Monica 4+ units (offsite)	25% more than onsite requirements											25%
San Jose 20+ units (onsite)									15%			15%
San Jose 20+ units (offsite)									20%			20%
San Francisco* (10-24 units)					14.5%							13.5%
San Francisco* (25 units or more)					12.5%		5%			5%		22.5%
San Bruno					6% and				9%			15%
Fremont (attached homes)								3.50%				3.50%
Fremont (detached homes)								4.50%				4.50%
Berkeley					20%							20%
Pasadena									20%			20%
South San Francisco (5+ units)					7.5%				7.5%			15%
Pomona						7% or 11%**						7% / 11%
Richmond***			10% or		15% or	17%						10-17%
Long Beach****									4%			4%

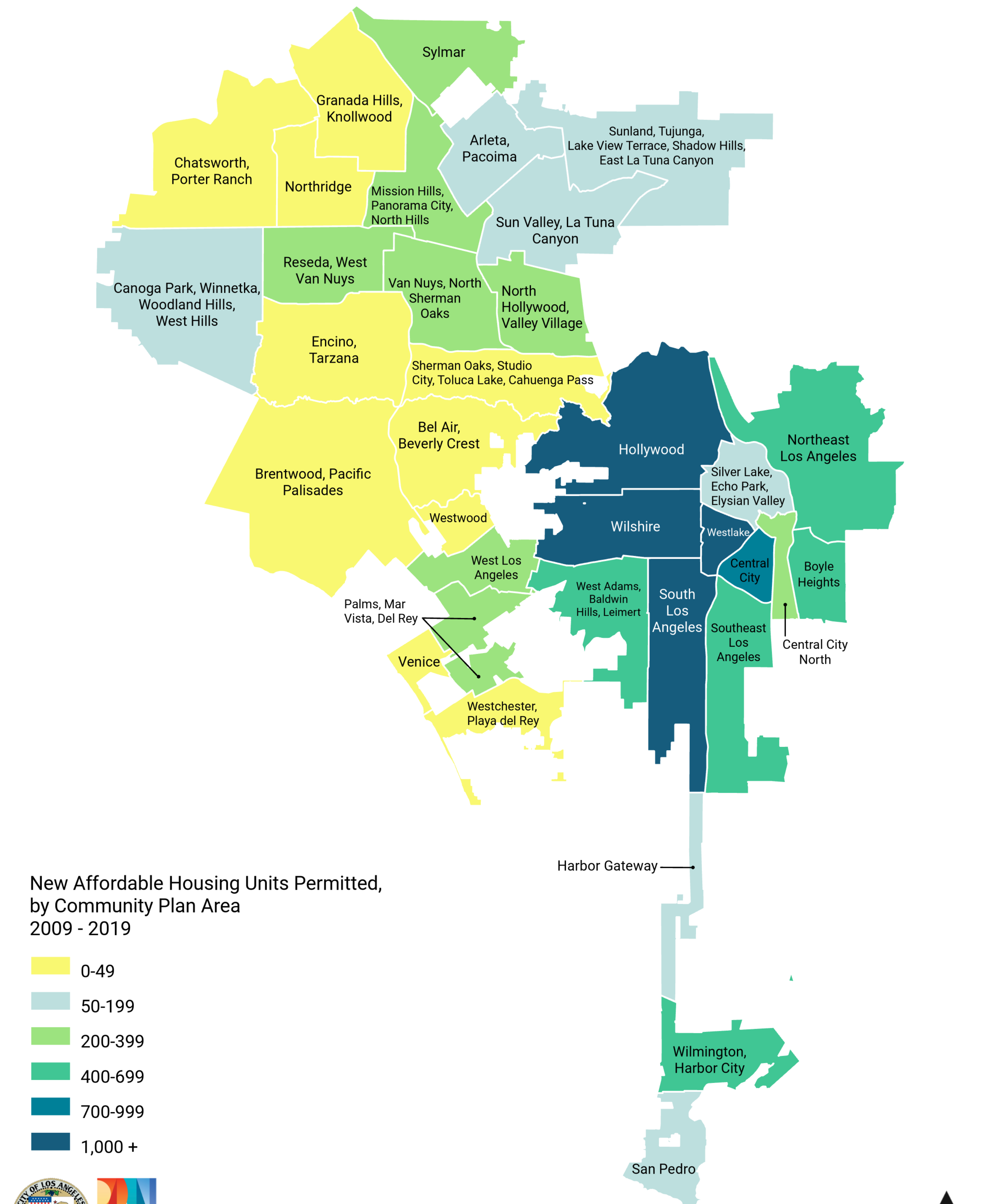
*Beginning on January 1, 2018 and each subsequent year, the LI inclusionary requirement will increase by .5% for developments with 10-24 units until this requirement reaches 15%. Beginning on January 1, 2020, the inclusionary requirement for developments with 25 or more units (owned or rented) will increase by .5% until the requirement reaches 26% for projects with ownership units or 24% for projects with rental units, with these units allocated equally for moderate and middle-income households.

** The requirement is 7% for single-family home developments, 11% for condos and townhouses

*** There is an additional option to set aside 12.5% if the units include a mix very-low and low-income units. The City is also in the process of updating their ordinance and changing the rental and homeownership requirements (as of October 2020)

**** The requirements will be phased in with 4% Mod required in CY 21, 5% Mod in CY 22, and the full 10% required in CY 23

Appendix B : Distribution of Permitted Affordable Housing 2009-2019



City of Los Angeles

LOS ANGELES CITY PLANNING