

# **EXHIBIT D.4:**

## **Community Benefits Fee Ordinance**

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### **Downtown Community Plan**

CF 22-0617; CPC-2017-432-CPU; CPC-2014-1582-CA; ENV-2017-433-EIR

Recommended by the City Planning Commission on September 23, 2021

September 2022

# **ARTICLE X**

## **Downtown Community Benefit Fee (Downtown CBF)**

**(Ordinance No. \_\_\_\_\_, Effective Date: xx/xx/xxxx)**

### **TABLE OF CONTENTS**

1. PURPOSE
2. SCOPE
3. DEFINITIONS
4. DOWNTOWN COMMUNITY BENEFITS FEE
5. DOWNTOWN COMMUNITY BENEFITS FUND
6. DOWNTOWN COMMUNITY BENEFIT OVERSIGHT COMMITTEE
7. PROCESS/ FUND DISBURSEMENT
8. FINDINGS
9. CONDITIONS OF APPROVAL
10. ELIGIBLE COMMUNITY BENEFITS
11. REQUIRED DOCUMENTATION/CHECKLIST

**ORDINANCE NO. \_\_\_\_\_**

An ordinance adding Section X.XXX (reserved) to Chapter 176 to the Los Angeles Administrative Code to create the Downtown Community Benefit Trust Fund for the receipt and use of Downtown Community Benefit Fee monies.

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

Section X. Chapter 176 of the Administrative Code is added to read as follows:

**SECTION. X.1. PURPOSE**

The Downtown Community Benefit Fee (Downtown CBF) is collected to fund public amenities, programs, and services that benefit disadvantaged communities within the Downtown Community Plan Area and the areas within its 1.5-mile radius. The goal of the Downtown Community Benefit Fee is to direct all monies collected to the Downtown Community Benefit Trust Fund (CBTF).

**SECTION. X.2. SCOPE**

1. This ordinance implements the Downtown CBTF, as defined herein, and as permitted by Section II - VI of the Downtown Community Plan Implementation Overlay District (Downtown CPIO).
2. This ordinance establishes standards, requirements, and approval procedures for the payment of fees towards the Downtown CBTF.
3. This ordinance establishes the standards, requirements, and approval procedures for allocating the Downtown CBTF to qualifying community benefits.

**SECTION. X.3. DEFINITIONS**

The following terms, whenever used in this article, shall apply only to the Downtown CBTF procedures in this article and shall be defined as set forth below. Other terms used in this article shall have the meanings set forth in Chapter 1A, or the Downtown CPIO, if defined there.

**Applicant** shall mean individual/group/agency who has submitted a proposal for a Downtown Community Benefit Project for consideration to receive funding allocation from the Downtown CBTF.

**Community Based Organization** shall mean a nonprofit organization, such as a 501c3, that is representative of a community or significant segments of a community engaged in

meeting human, educational, occupational, environmental, or housing public health, community needs or offer other needed social services. Organizations can include neighborhood groups and organizations, community action agencies, community development corporations.

**Downtown Community Benefit Area** shall mean the Downtown Community Plan Area and the area within its 1.5-mile radius. Any uniform site of contiguous ownership that is partially within a 1.5-mile radius of the Downtown Community Plan Area, shall be considered part of the Downtown Community Benefit Area.

**Downtown Community Benefit Fee** shall mean that dollar sum established by the application of the fee set forth in Section X.5 below.

**Downtown Community Benefit Trust Fund** shall mean a certain interest-bearing Trust Account administered by the City Clerk's Office designated as Downtown Community Benefit Fund, from which funds may be distributed as set forth in this ordinance.

**Downtown Community Benefit Project** shall mean public amenities, programs or services, pursuant to Section X.9, Eligible Community Benefits, below.

**Low-income Micro-entrepreneur** shall mean a business owner with less than \$2.5M in gross receipts; has an annual household income lower than the "Low-income" category as defined by the Los Angeles Housing and Community Investment Department (HCID); and has no more than 50 employees/shareholders.

**Primary Mobility Hub** shall mean indoor useable space of a minimum of 1,000 square feet, is free of any barriers to access, is offered rent-free to Mobility Hub operators for a period of 15 years, receives approval from LADOT's Mobility Hub Project Manager and meets the requirements of transit agencies such as LADOT for Mobility Hubs as identified below:

- Direct public entrance from the adjacent Primary or Side street
- Public access to electricity with a minimum of one electrical outlet on each wall
- No administrative fees may be charged to the operator
- Accessibility to staff for operations and maintenance

**Satellite Mobility Hub.** shall mean a hub that supports Primary Mobility Hubs and offers one or two modes of transportation that connects to the larger transportation network. These may be outdoors, on public right-of-way or on private property, and must meet LADOT's description of Satellite Mobility Hubs and approval of LADOT's Mobility Hub Project Manager.

**Organized Tenant Group** shall mean a group of tenants who have formed a nonprofit corporation or organization, or cooperative corporation, that represents the interest of at

least a majority of the tenants in the housing development, whose purpose includes the acquisition of a housing development. Such groups can include but are not limited to tenants associations and tenants unions.

**Resiliency Center** shall mean 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. Resiliency centers should 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.

**Sidewalk Vendor Commissary Kitchen** shall mean a Commissary Kitchen, pursuant to Chapter 1A Article 3, 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 lower than the "Low-income" category as defined by the Los Angeles Housing and Community Investment Department (HCID).

**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 culturally relevant needed goods or services for local low-income residents, is not franchised or affiliated with a national chain, and meets at least four of the following six standards:

- (i) has been in continuous operation in the Downtown Community Benefit Area for at least 20 years with no break in its operations exceeding two years
- (ii) has no more than 50 employees/shareholders
- (iii) the business has contributed to the neighborhood's history and/or the identity of a particular neighborhood or community.
- (iv) the business includes employees that can serve multi-lingual members of the community
- (v) Accepts government issued assistance such as EBT
- (vi) Pays employees a living wage per the City's Living Wage Ordinance

## **SECTION. X.5. DOWNTOWN COMMUNITY BENEFITS FEE**

### **A. Applicability**

Projects located within Subarea A delineated in the Downtown CPIO that meet the requirements described in Section II-VI of the Downtown CPIO, and seeking additional floor area up to the subject site's Bonus Maximum FAR, may pay a fee to the Downtown CBTF, pursuant to the provisions of Sections X.5.B and X.5.C below.

### **B. Fee Rate**

The fee payable to the Downtown CBTF shall be determined by the City as follows:

- a. A project shall pay \$50 per square feet for every additional Bonus floor area up to the subject site's Bonus Maximum FAR, provided the project meets the requirements set forth in Section II-VI of the Downtown CPIO.
- b. All Community Benefit Fee payments shall be collected pursuant to Section. X.5 of this ordinance and deposited into a Downtown CBTF prior to the issuance of an Administrative Clearance or other approval consistent with the Downtown CPIO.

### **C. Annual Indexing**

The Fee shall be periodically increased (or decreased) as follows:

- a. The Fee rates listed above 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 the Department of City Planning.
- b. If the Department of City Planning determines that the City's Building Cost Index does not adequately reflect the actual increase in costs, then the Department of 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 adjustment of the Downtown Community Benefits Fee under this Section X.5.C.

## **SECTION. X.6. DOWNTOWN COMMUNITY BENEFIT TRUST FUND**

### **A. OVERSIGHT COMMITTEE**

A Downtown Community Benefit Fund Oversight Committee (Oversight Committee) shall be established under this ordinance, and shall make recommendations for the

appropriate disbursement of the Downtown Community Benefit Trust Fund (Downtown CBTF).

The composition of membership shall be as follows:

- One member from each of the following City groups:
  - The Mayor's Office
  - The City Administrative Officer
  - Office of the Chief Legislative Analyst
  - Department of City Planning
  - Housing and Community Investment Department (HCID)
- A total of seven public members shall serve on the Oversight Committee.
  - One public member shall be appointed by each Council District within the Downtown Community Plan Area (Council Districts 1, 9, and 14) and shall serve as representative stakeholders from the Downtown Community Plan Area.
  - One public member shall be appointed by the Mayor's Office and shall serve as a representative stakeholder from the Downtown Community Plan Area.
  - Three public members shall apply to be selected to serve as representatives from inside or within 1.5 miles of the Downtown Community Plan Area boundary. Public members must include representation of residents of Downtown's multiple neighborhoods and residents affected by the affordable housing and eviction crisis, these representatives will be known as lived experience appointees.
  - The criteria and the process for the appointment and selection of public members shall be established in the Downtown Community Benefit Fund Oversight Committee By-laws.

The terms, meeting schedules, training program, and other roles and responsibilities of the Oversight Committee shall be established in the Downtown Community Benefit Fund Oversight Committee By-laws.

## **B. PROCESS FOR FUND DISBURSEMENT**

The Oversight Committee shall recommend funding appropriations from the Downtown CBTF, in accordance with Section XX (reserved) of the Los Angeles Administrative Code and comply with the following:

- (i) Funds shall be disbursed within five years after receipt; and
- (ii) Any Community Benefit approved for receiving funding appropriations shall meet standards set forth in Section X.9 of this Ordinance

This Chief Legislative Analyst shall convene the Downtown Community Benefit Oversight Committee within six months of receipt of funds.

The Oversight Committee shall recommend approval, approval with conditions or disapproval of the proposed Community Benefit with the recommendation to be based solely upon the degree that the Community Benefit complies with the findings and conditions set forth in Sections X.7 and X.8 below.

**C. MEETINGS:**

All Oversight Committee meetings shall be open to the public and comply with the Ralph M. Brown Act (Government Code sections 54950-54963).

**SECTION. X.7. FINDINGS**

The Oversight Committee shall include written findings in support of their recommendation to approve and allocate funding for a proposed Downtown Community Benefit Project. In order to recommend approval to the City Council, pursuant to this subsection, the Oversight Committee must find that:

- i. The proposed Community Benefit Project is in conformance with the Downtown Community Plan and any other relevant policy documents previously adopted by the Commission and/or the City Council.
- ii. The proposed Community Benefit Project is an Eligible Community Benefit as identified in Section X.9 of this ordinance, below.
- iii. The proposed Community Benefit Project serves a need or service that is not adequately available within 0.5 miles of the receiver site.
- iv. The proposed Community Benefit Project is located in the Downtown Community Plan Area or within its 1.5-mile radius. A Community Benefit Project within the Downtown Community Plan Area shall be prioritized over others within the eligible area radius outside of the Plan Area.
- v. The proposed Community Benefit Project is located in an area with a higher "Population Characteristics Percentile" score, as indicated in the CalEnviroScreen, in comparison to other Community Benefit Projects submitting requests for funding in that disbursement period. (In the event this score is not available, the proposed Community Benefit Project located 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).

## **SECTION. X.8. CONDITIONS OF APPROVAL**

The Oversight Committee shall include the following written Conditions of Approval, as applicable, in order to approve and recommend funding for a proposed Downtown Community Benefit Project:

1. Any entity receiving the Fund shall expend the Fund received within three years pursuant to the process established in the Downtown Community Benefit Fund Oversight Committee By-laws.
2. Any entity receiving the Fund for taking ownership of At-Risk Affordable Units pursuant to Sections X.9.1.b and X.9.1.c shall record an affordability covenant guaranteeing affordability to Deeply Low, Extremely Low, Very Low, or Low in a manner consistent with LAMC Chapter 1A 9.2.H.1.
3. Any entity receiving the Fund for taking ownership of At-Risk Affordable Units pursuant to Sections X.9.1.b and X.9.1.c shall in no circumstances evict existing tenants from existing units. If existing tenants do not meet the income restriction above, the unit shall not be income restricted until the unit is vacant.
4. A Small Legacy Business receiving the Fund shall maintain the physical features or traditions that define the business, including craft, culinary, or art forms.
5. Any Community Benefit Project that includes public right-of-way improvements shall receive approval from the Los Angeles (LADOT) Department of Transportation and Department of Public Works.

The Oversight Committee may require additional conditions for approval, as it deems necessary to accomplish the purposes and objectives of the Downtown Community Benefit Fee ordinance.

## **SECTION. X.9. ELIGIBLE COMMUNITY BENEFITS**

Community Benefits that are eligible to receive funding from the Downtown CBTF are as follows:

1. Programs to support affordable housing
  - a. Land acquisition for the purposes of establishing permanent, community-controlled affordable housing by organizations such as Community Land Trusts or other similar groups.

- b. Acquisition of buildings in default or facing expiring affordability covenants in the next 10 years in order preserve housing affordability. Qualifying applicants include but are not limited to: owners of the said project; developers; non-profit organizations; Organized Tenant Groups; Community Based Organizations; or the Los Angeles Housing and Community Investment Department (HCID).
  - c. Time extension for buildings facing expiring affordability covenants in the next 10 years. Qualifying applicants include but are not limited to: non-profit organizations; owners of the said project; developers; Organized Tenant Groups; Community Based Organizations; or the Los Angeles Housing and Community Investment Department (HCID).
  - d. Construction of new 100% affordable housing projects, permanent supportive housing projects or temporary shelters for people experiencing homelessness.
  - e. Construction of housing projects including Accessory Dwelling Units (ADU's) that serve as Restricted Affordable Units as defined by HCID.
- 2. Programs to support small legacy and community-serving businesses
  - a. Rent subsidies to provide below-market rent to community-serving Small Legacy Businesses, with priority for businesses owned by an individual or individuals with annual household incomes of "Moderate-Income" category or lower as defined by the Los Angeles Housing and Community Investment Department (HCID).
  - b. Grants for Low-income Micro-entrepreneurs working in the Downtown Community Plan Area or within its 1.5-mile radius.
  - c. Subsidies to facilitate creation of Sidewalk Vendor Commissaries.
- 3. Design and procurement of sidewalk vending carts for donation to sidewalk vendors whose annual household income is lower than the "Low-income" category as defined by the Los Angeles Housing and Community Investment Department (HCID) and working in the Downtown Community Plan Area Area. Vending carts shall comply with the regulations of the City of Los Angeles Sidewalk Vending Program, including the Los Angeles County Department of Public Health regulations for food vending.
- 4. Construction of new permanent or temporary Resiliency Centers or conversion of existing buildings or structures to serve as Resiliency Centers. During non-emergency, Resiliency Centers may serve other uses identified in Section X.9.5 below.
- 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 Street Improvements limited to the following:
  - a. Projects that enhance safety and/or connectivity for people walking, bicycling, and accessing transit.

- b. Transit supportive infrastructure, such as: 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. On-site and off-site infrastructure should be developed in close coordination with Metro, LADOT, and Public Works.
- c. Programs that will be identified in the Los Angeles Department of Transportation (LADOT)'s Downtown Los Angeles Mobility Investment Plan (DTLA MIP) for the Downtown Community Plan Area.
- d. Mobility Hubs (Primary or Secondary) as specified by the Los Angeles Department of Transportation (LADOT)

**7. Parks and Open space**

- a. Additions and improvements to existing public parks.
- b. Operations and maintenance of existing public parks.
- c. Funds towards land acquisition and/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.

Sec. 12. 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. 13. 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

MICHAEL N. FEUER, City Attorney

Date \_\_\_\_\_

By \_\_\_\_\_

File No. \_\_\_\_\_

Director of Planning

Date \_\_\_\_\_

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.

CITY CLERK

\_\_\_\_\_

Ordinance Passed \_\_\_\_\_

Pursuant to Charter Section 559, I approve this ordinance on behalf of the City Planning Commission and recommend that it be adopted.

MAYOR

\_\_\_\_\_

\_\_\_\_\_

VINCENT P. Bertoni, AICP

Approved \_\_\_\_\_