

BERKELEY HOUSING AUTHORITY
RESOLUTION NO. 23-18

RESOLUTION OF THE BERKELEY HOUSING AUTHORITY (BHA) COMMITTING \$3,300,000 FROM THE BERKELEY HOUSING AUTHORITY'S U.S DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) HELD HOUSING CHOICE VOUCHER (HCV) HOUSING ASSISTANCE PAYMENTS (HAP) RESERVE ACCOUNT, TO BE USED EXCLUSIVELY FOR BHA'S MOVING TO WORK (MTW)-LOCAL, NON-TRADITIONAL PROGRAMS AND SERVICE PROVISION PROGRAMS PER PIH NOTICE 2011-45 OR SUCCESSOR NOTICE

WHEREAS, the Berkeley Housing Authority (BHA) is a public housing agency (PHA) pursuant to 42 USCS 1437a(b)(6)(A);

WHEREAS, in 1996, the Moving to Work (MTW) demonstration program for PHA's was created to provide PHAs the opportunity to design and test innovative, locally designed strategies that use Federal dollars more efficiently, help residents find employment and become self-sufficient, and increase housing choices for low-income families;

WHEREAS, MTW allows PHAs exemptions from many existing public housing and voucher rules and provides funding flexibility with how they use their Federal funds;

WHEREAS, BHA joined the MTW demonstration program in 2022;

WHEREAS, as an MTW agency, BHA has the flexibility to apply fungibility among Housing Choice Voucher (HCV) Housing Assistance Payments (HAP) and Administrative Fee assistance. Certain provisions of Sections 8 and 9 of the 1937 Act and implementing requirements are waived as necessary to implement this flexibility;

WHEREAS, normally the 2016 MTW Expansion Statute (Section 239 of the Consolidated Appropriations Act, 2016, P.L. 114-113; 129 Stat. 2897) does not expressly authorize accumulated reserves to be used in accordance with this fungibility, any previously appropriated prior year funds (i.e., reserves) provided to BHA prior to the date of its executed MTW Annual Contribution Contract (ACC) Amendment must be used for their originally appropriated purposes and cannot be used flexibly;

WHEREAS, however, Congress granted MTW Expansion Agencies, including BHA, temporary relief from this requirement in the Fiscal Year (FY) 2022 Appropriations Act, which permitted an MTW Expansion Agency to use its prior year funds flexibly for any MTW-eligible purpose during FY 2022. Congress again provided this funding flexibility in the Consolidated Appropriations Act, 2023 (Public Law 117-328), which was signed into law by the President on December 29, 2022. Consequently, MTW Expansion PHA(s) may utilize funding flexibility for prior-year reserves through September 30, 2023;

WHEREAS, in accordance with the authority granted to BHA as an MTW Expansion Agency, BHA desires to commit \$3,300,000 of funds derived from BHA's HUD Held HCV HAP Reserves ("BHA Committed HUD Held Reserves") to be used in pursuit of local, non-traditional program

expenses, including, but not limited to housing development programs, homeownership programs, rental subsidy programs, and service provision programs per PIH Notice 2011-45 or successor notice; and

WHEREAS, the Board of Commissioners has duly considered all terms of the agenda report presented to it by staff and believes that the commitment of \$3,300,000 of funds derived from BHA's HUD Held HCV HAP Reserves for the purposes described above is an eligible use and benefits the City of Berkeley, will help residents and will lead to an increase in housing for low-income households.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE BERKELEY HOUSING AUTHORITY:

THAT, the above referenced recitals are true and correct and incorporated herein by reference.

THAT, the Board of Commissioners authorizes and approves the commitment of \$3,300,000 of funds derived from BHA's HUD held HCV HAP reserves ("BHA Committed HUD Held Reserves") to be used in pursuit of local, non-traditional program expenses, including, but not limited to housing development programs, homeownership programs, rental subsidy programs, and service provision programs per PIH Notice 2011-45 or successor notice.

THAT, the Executive Director is authorized to execute all documents necessary or required by HUD in connection with the disbursement of the BHA Committed HUD Held Reserves.

THAT, any use of the BHA Committed HUD Reserves for a specific Moving to Work (MTW) local, non-traditional program and /or service provision program shall be subject to compliance with The National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA) as applicable.

THAT, use of any portion of the BHA Committed HUD Held Reserves for a specific Moving to Work (MTW)-local, non-traditional program and/or service provision program shall be subject to separate approval by the Board of Commissioners.

THAT, the Executive Director, on behalf of BHA, is hereby authorized to take all actions necessary to implement the foregoing resolution.

THAT, if any section, paragraph, or provision of this Resolution shall be held to be invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect any remaining provisions hereof.

THAT, this Resolution shall take effect from and after its adoption.

The foregoing Resolution was adopted by the Board of the Berkeley Housing Authority on August __, 2023 by the following vote:

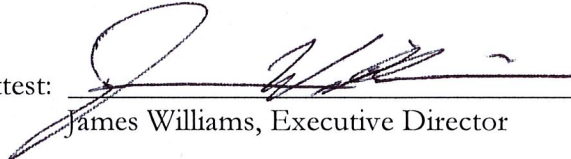
Ayes:

Noes:

Abstain:

Absent:

Attest:


James Williams, Executive Director