



## Berkeley Housing Authority

1936 University Ave., Suite 150, Berkeley, CA 94704  
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Item 8A

NEW BUSINESS

November 10, 2022

*Office of the Executive Director*

To: Honorable Chair and Members of the Berkeley Housing Authority Board

From: Jhaila R. Brown, Interim Executive Director

Subject: Appointment of Executive Director/Board Secretary

### RECOMMENDATION

Adopt a Resolution Appointing James Williams as the Berkeley Housing Authority Executive Director/Board Secretary; Authorizing and Approving that certain Executive Director Employment Agreement to be Entered into between the Berkeley Housing Authority and James Williams with an Annual Salary of \$176,300, plus benefits, for a renewable 3 year term; and Authorizing James Williams as Executive Director to Enter Into Service Agreements on Behalf of the Berkeley Housing Authority Up to a Maximum Amount of \$50,000.

### BACKGROUND

On August 22, 2022, BHA announced the recruitment for a BHA Executive Director. A Hiring Committee consisting of three of the BHA Board Commissioners was created to advise the full Board during the recruitment process. BHA, with the assistance of a third-party recruiter and the Hiring Committee, reviewed seven resumes, and interviewed 3 candidates. Candidates were scored on a number of factors such as management experience, knowledge of the Section 8 program and Moving to Work Program, and level of community engagement. BHA staff and the Hiring Committee recommend the Board of Commissioners appoint James Williams as the candidate most qualified for the Executive Director position.

### DISCUSSION

BHA's Executive Director position has been filled by Interim Executive Directors since August, 2019. An active recruitment was first commenced in January 2020 and then paused due to the COVID-19 Pandemic. A new recruitment for the Executive Director position commenced again in August of 2022. After the completion of an intense search of candidates and multiple interviews, the Hiring Committee and staff recommend the Board of Commissioners appoint James Williams as the successful candidate based on his overall scores.

With over 15 years of experience, Mr. Williams has worked in nearly every facet of public housing, from property administration to chief executive officer, and has gained experience working with seven (7) housing authorities across the country. He has overhauled operations and analyzed the finances of

troubled housing authorities under receivership, to spearheading their strategic revitalization. He has also led numerous initiatives to increase occupancy rates, drive redevelopment, and improve affordable housing programs during that time.

While in these roles, Mr. Williams managed large operational and capital budgets and has led multidisciplinary teams of up to 300 staff members and contractor personnel. He has also served as a trusted advisor to leaders and executives to develop financial and strategic plans that drive the achievement of organizational objectives, execution of major expansion initiatives, and addressed diverse challenges in the affordable housing market. He has the requisite experience to lead the Berkeley Housing Authority.

The Hiring Committee and Staff recommend appointing James Williams as Executive Director of the Berkeley Housing, with an Annual Salary of \$176,300, plus benefits, for a renewable 3-year term, as specified in the attached Executive Director Employment Agreement and Resolution.

#### FINANCIAL IMPLICATIONS

This position is budgeted.

#### CONTACT PERSON

Jesy Yturralde, Finance Manager, 981-5488

#### Attachments:

1. Resolution
2. Executive Director Employment Agreement

BERKELEY HOUSING AUTHORITY  
RESOLUTION 22-\_\_\_\_\_

APPOINTING JAMES WILLIAMS AS THE BERKELEY HOUSING AUTHORITY EXECUTIVE DIRECTOR/BOARD SECRETARY; AUTHORIZING AND APPROVING THAT CERTAIN EXECUTIVE DIRECTOR EMPLOYMENT AGREEMENT TO BE ENTERED INTO BETWEEN THE BERKELEY HOUSING AUTHORITY AND JAMES WILLIAMS WITH AN ANNUAL SALARY OF \$176,300, PLUS BENEFITS, FOR A RENEWABLE 3 YEAR TERM; AND AUTHORIZING JAMES WILLIAMS AS EXECUTIVE DIRECTOR TO ENTER INTO SERVICE AGREEMENTS ON BEHALF OF THE BERKELEY HOUSING AUTHORITY UP TO A MAXIMUM AMOUNT OF \$50,000.

WHEREAS, Rachel Gonzales-Levine, the Housing Authority of the City of Berkeley's ("Authority") Acting Executive Director, resigned from her position on October 22, 2022;

WHEREAS, the Board of Commissioners ("Board") appointed Jhaila R. Brown, of Goldfarb and Lipman LLP, as Interim Executive Director/Secretary to serve until the Board appointed a new permanent Executive Director/Secretary;

WHEREAS, the Board conducted a national search of qualified Executive Director candidates, with the assistance of a third-party recruiter, and, based on overall scoring, deems it in the best interest of the Authority to appoint James Williams as the Authority's permanent Executive Director/Secretary due to his professional experience and knowledge base in housing authority programs and operations;

WHEREAS, the Board recommends authorizing and approving that certain Executive Director Employment Agreement to be entered into between the Authority and James Williams with an annual salary of \$176,300, plus benefits, for a renewable 3-year term, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference ("Employment Agreement"); and

WHEREAS, the Board also recommends authorizing James Williams as Executive Director to enter into Service Agreements on behalf of the Authority in up to a cumulative maximum amount of \$50,000 per agreement.

NOW THEREFORE, BE IT RESOLVED, that James Williams is hereby appointed as the Executive Director/Secretary of the Berkeley Housing Authority effective November 14, 2022;

BE IT FURTHER RESOLVED, that the Board hereby approves that certain Executive Director Employment Agreement to be entered into between the Authority and James Williams with an annual salary of \$176,300, plus benefits, for a renewable 3 year term, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference ("Employment Agreement"), and authorizes the Board Chairperson to execute the Employment Agreement on behalf of the Authority and to execute all other documents necessary to implement and administer the Employment Agreement;

BE IT FURTHER RESOLVED, that James Williams shall be authorized to execute forms required by the U.S. Department of Housing and Urban Development ("HUD"), including, but not limited to

Housing Assistance Payments Contracts, and such other agreements necessary and required for the administration and operation of the Authority and its affordable housing programs; and

BE IT FURTHER RESOLVED, that James Williams shall be authorized to enter into agreements on behalf of the Authority up to the maximum amount of \$50,000 per agreement; and

BE IT FURTHER RESOLVED that the Board Chairperson is hereby authorized to take any and all actions necessary or required to implement and administer this Resolution.

The foregoing Resolution was adopted by the Board of the Housing Authority of the City of Berkeley on November 10, 2022, by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Attest: \_\_\_\_\_  
Jhaila R. Brown, Secretary

EXHIBIT A  
EXECUTIVE DIRECTOR EMPLOYMENT AGREEMENT  
(behind this page)

## EXECUTIVE DIRECTOR EMPLOYMENT AGREEMENT

### RECITALS

This Executive Director Employment Agreement ("**Agreement**") dated November \_\_\_\_\_, 2022, is by and between the Housing Authority of the City of Berkeley, a public body, corporate and politic ("**Authority**") and James Williams ("**Executive Director**"). The Authority and Executive Director are individually referred to herein as a "Party" and collectively as the "Parties."

### RECITALS

**WHEREAS**, the Authority, having solicited qualified candidates, evaluated their experience and qualifications, and formally interviewed several applicants for the position of Executive Director, agrees to employ James Williams as Executive Director because he was found to possess that unique and special experience and knowledge of the Section 8 Program, Moving to Work Program, affordable housing development, asset management, and similar programs; and

**WHEREAS**, James Williams has agreed to accept employment as Executive Director of the Authority; and

**NOW, THEREFORE**, the Parties agree as follows:

#### **1.0 Term**

- 1.1 Initial Term. The initial term of this Agreement shall be for approximately three (3) years beginning November 14, 2022 (Effective Date) and ending October 31, 2025.
- 1.2 Automatic Extension. After the end of the Initial Term, unless notice of termination is given by either Party as hereinafter set forth, there shall be an automatic one-year extension following each annual anniversary of the Effective Date and of any extension thereof.

In the event either Party to this Agreement does not wish the automatic extension to occur, either the Authority or Executive Director shall provide the other Party written notice of the intent not to continue this Agreement beyond the end of the then existing term no later than ninety (90) days prior to the anniversary date of the Effective Date. If such notice not to extend is given, it will not alter or shorten the then existing term of the Agreement but shall only prohibit the automatic one-year extension. It is the intention of the Parties that this provision shall operate as an "automatic extension clause" so that the Agreement will automatically be extended for one additional year as of each anniversary of the Effective Date and so that the Agreement (if not earlier

terminated by notice of either Party as described herein) shall always have a remaining one-year term. In the event a notice of termination is given as outlined above, its effect will be that this Agreement will no longer automatically extend but will expire at the end of the then existing term, or on such earlier date as provided in this Agreement.

1.3 The Executive Director shall serve at the will and sole pleasure of the Authority. Either the Authority or Executive Director may terminate this Agreement at any time with or without cause and with or without the need of any explanation or cause, subject to the following provisions.

1.4 Termination without cause by the Authority.

In the event the Authority elects to terminate the Executive Director without cause, and notwithstanding the term on this Agreement, the Authority shall provide the Executive Director with ninety (90) Days advance written notification and severance pay as defined herein. In the event the Authority terminates Executive Director without cause, he shall be entitled to three (3) months of base pay as severance pay. Any severance payment will exclude all other benefits. In addition, vacation and sick leave accrual shall cease upon the effective termination date in the Authority's notification to Executive Director that his employment will be terminated. Severance pay shall be computed from the effective date of the Executive Director's termination. (Cal. Gov. Code section 53260.)

As required by California Government Code section 53260, and notwithstanding the terms of this Agreement, if the Executive Director's employment is terminated, the maximum cash settlement that can be received is an amount equal to the monthly salary multiplied by the number of months left on the unexpired term of the Agreement, or 18 months, whichever is less. (Cal. Gov. Code section 53260.)

Notwithstanding any other provision of this Agreement, if the Executive Director is convicted of a crime involving an abuse of the office or position, he shall fully reimburse to the Authority any cash settlement (i.e., severance) received under this Section (i.e., Section 1.3), "Abuse of office or position" has the same definition as contained in California Government Code section 53243.4. (Cal. Gov. Code section 53243.2.)

1.5 Termination for cause by the Authority.

The Authority reserves the right to terminate this Agreement immediately and for cause, at any time and without providing any advance notice if, in the sole opinion of the Authority, Executive Director has breached this Agreement, has neglected the duties that required to be performed under it, has committed any act of dishonesty, fraud, misrepresentation, or moral turpitude, has failed to

obey the lawful direction of the Authority, has acted in any way that has a substantial and adverse effect on the Authority's reputation, or upon the occurrence of an event disqualifying the Executive Director from public office under the State Constitution, statutes, or regulations. If the Authority terminates Executive Director for cause, Executive Director shall not be entitled to any pay other than that due and owing as of the final day of work.

#### 1.6 Termination by Executive Director.

Executive Director may terminate this Agreement by providing a minimum of ninety (90) days advance written notice of such termination to the Authority. Any such notice shall be provided to the Authority at 1947 Center Street, 5<sup>th</sup> Floor, Berkeley, CA 94704. The Authority reserves the right to advance any termination date selected by Executive Director; provided, however, in the event the Authority advances such termination date to a date earlier than such 90 day termination date, the Executive Director shall be entitled to base pay for the full 90 day period. In the event Executive Director terminates employment, he shall remain on regular duty at the Authority (and not on vacation or otherwise absent) from the date of notification up to the effective date of the termination, to assist the transition to any interim management arrangements that may be determined by the Authority. In the event Executive Director terminates employment under this Agreement, the provisions of this Agreement and all compensation and benefits owed Executive Director under it, shall cease upon the effective date of such termination.

### **2.0 Duties of Executive Director**

2.1 The Executive Director shall be an exempt employee under the Fair Labor Standards Act. The Executive Director shall provide full time personal services and shall perform the duties of the Executive Director in accordance with the laws of the State of California, and specifically, the State of California Health & Safety Code Section 34200, Division 24, Part 2.

2.2 In addition to the powers and duties set forth in the Health & Safety Code, the Executive Director shall have those powers and duties which are delegated to him by the Authority, including the responsibility for management and control of Authority's personnel, equipment, furnishings, other assets such as real property and improvements, liabilities and agreements, and all other administrative functions of the Authority. He shall execute all powers and duties in accordance with the bylaws and policies adopted by the Authority, the laws of the United States of America, the State of California and all applicable Federal and State Regulations.

2.3 Due to the nature and extent of Executive Director's duties, he shall not engage in any employment including independent contracting as a consultant, outside of working for the Authority.



2.4 The Executive Director shall be the chief executive officer of the Authority. He shall have the primary responsibility for providing the leadership to achieve the mission and goals of the Authority. Further, he shall recommend and ensure the implementation of Authority-approved policies.

2.5 In the position of Executive Director, the Executive Director will:

- A. Perform general management services for the management and operation of the Section 8 Program and all other programs or activities falling within the jurisdiction of the Authority.
- B. Act as Executive Director of Affordable Housing Berkeley, Inc. ("AHB"), the Authority's nonprofit development affiliate, and to perform general management services with respect to AHB's work in support of development of affordable housing and other duties consistent with AHB's mission statement.
- C. Within the approximately first sixty (60) days of employment consult with the Board of Commissioners to establish objective verifiable measures of the Executive Director's performance to be completed during the first year, including, but not limited to, increasing utilization rates of the Authority's Housing Choice Vouchers to a level that will provide benefits to low income households and maintain the viability of the Authority as an independent entity, and improved customer services for program participants.
- D. Be responsible for all Authority monies, bonds, securities, and other assets.
- E. Act as Secretary to the Board of Commissioners.
- F. Perform all related duties as required for the efficient management of the Authority,
- G. Perform all related duties as required for the efficient management of the Authority.

2.6 Other Duties. The Executive Director shall: (1) periodically review all policies adopted by the Authority and make appropriate recommendations for changes to Authority policy, management, and operations; (2) evaluate employees as provided by California law and Authority policy; and (3) use best efforts to ascertain and advise Authority of all possible sources of funds that might be available to implement current or contemplated Authority programs.

### **3.0 Compensation**

3.1 Annual Base Salary. For the years subsequent to the first year of employment, the Executive Director's salary shall be established by the Board of Commissioners (Board) based on objective verifiable measures, payable in bi-weekly installments from the commencement of this Agreement.

3.2 Annual Review and Amendment. Except for the sixty (60) day review and potential salary adjustment detailed in subsection 3.3, the Board of Commissioners of the Authority on an annual basis, will provide the

Executive Director with an annual performance review. Following such review, the Board may adjust the Executive Director's base salary to a higher amount, based on the Executive Director's performance and merit, and considering the Authority's revenues sufficient to pay the merited increase while maintaining an acceptable level of operations. In addition, the Board may authorize cost of living adjustments to the Executive Director's salary.

- 3.3 Current Compensation. The Executive Director's base salary shall be \$176,300 per annum, subject to the availability of such funds in accordance with the usual and customary annual budget approval process. The Executive Director's salary is to be paid at the same intervals and in the same manner as other Authority employees.

Salary increases, if any, in the second and subsequent years of this Agreement shall be based upon performance, including, but not limited to performance related to development activity of Authority's affiliates. Within the first approximately sixty (60) days of the Executive Director's employment, the Board of Commissioners will consult with the Executive Director, and the Board of Commissioners will establish objective verifiable measures of the Executive Director's performance to be completed during the first year. The Parties agree to conduct and complete an annual review of the Executive Director's performance no later than thirty (30) days after the anniversary of the Effective Date. If, after the first year of employment, the Executive Director has a "meets expectations" or better rating on his annual performance evaluation and meets or exceeds the objective verifiable measures, the Executive Director shall receive an annualized increase in his salary for the second year of employment of a minimum of five percent (5%), subject to the availability of such funds in accordance with the usual and customary annual budget approval process. Such minimum of five percent (5%) increase shall be in effect on the next payroll date following the completion of the Executive Director's performance review. In the event the Executive Director's salary increase is postponed due to budget delays or lack of funding, it shall be retroactive to the date it would have become effective once the budget is approved and funding made available.

- 3.4 If, after the second year of employment, the Executive Director has a "meets expectations" or better rating on his annual performance evaluation and the Executive Director meets or exceeds mutually agreed upon objective verifiable measures, the Executive Director shall receive an annualized increase in his salary for the third year of employment of minimum of five percent (5%), subject to the availability of such funds in accordance with the usual and customary annual budget approval process. Such minimum of five percent (5%) increase shall be in effect on the next payroll date following the completion of the Executive Director's performance review. In the event the Executive Director's salary increase is postponed due to budget delays or lack of funding, it shall be retroactive to the date it would have become effective

once the budget is approved and funding made available.

3.5 For each year of this Agreement thereafter, the Parties will consult with each other regarding the prospective objective verifiable measures of the Executive Director's performance which the Board of Commissioners will establish for the upcoming year. At the conclusion of the third year of this Agreement, i.e., November 2025, if the Executive Director has a "meets expectations" or better rating on his annual performance evaluation and the Executive Director meets or exceeds the mutually agreed upon objective of verifiable measures, the Parties shall mutually agree on an increase in his salary for that year of employment, subject to the availability of such funds in accordance with the usual and customary annual budget approval process. Such increase shall be in effect on the next payroll date following the completion of the Executive Director's performance review. In the event the Executive Director's salary increase is postponed due to budget delays or lack of funding, it shall be retroactive to the date it would have become effective once the budget is approved and funding made available.

#### **4.0 Benefits**

4.1 The Authority shall provide the Executive Director benefits on the same basis as that provided to all other management employees as specified in that certain Memorandum of Understanding between the Berkeley Housing Authority and Local One AFSCME Council 57 covering the period of June 27, 2021-June 22, 2024, that is he shall be covered by Workers' Compensation Insurance, Unemployment Insurance, State Disability Insurance, and Life Insurance provided as an element of the Authority's employee benefits program, and shall continue to be enrolled as a participant in the California Public Employees Retirement System ("CalPERS") as required by law.

4.2 The Executive Director shall be provided the same fringe benefits, i.e., vacation, sick leave, holidays, hospitalization and medical insurance, and dental and orthodontic insurance, as that provided to all other management employees as specified in that certain Memorandum of Understanding between the Berkeley Housing Authority and Local One AFSCME Council 57 covering the period of June 27, 2021-June 22, 2024.

4.3 The Authority shall provide the Executive Director with additional employee benefits which shall be as follows:

4.3.1 A one-time relocation payment of Fifteen Thousand Dollars \$15,000.

4.3.2 Membership in professional and community organizations e.g., housing organizations such as National Association of Housing and Redevelopment Officials, up to a maximum annual cumulative

amount of \$2,500.

4.3.3 Vehicle Allowance. The Authority will provide the Executive Director with a monthly car allowance of \$360. The Executive Director shall be responsible for compliance with all applicable state and federal laws regarding personal use of such vehicle.

## **5.0 Indemnification**

The Authority agrees to defend, hold harmless and indemnify the Executive Director against any claim or legal action arising out of an alleged act or omission occurring within the course and scope of employment.

## **6.0 Merger, Amendments, Waiver**

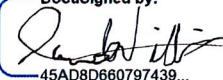
This Agreement constitutes the complete understanding between the Parties and supersedes any and all prior agreements or other promises between the Parties, or any and all other inducements, no matter what its or their form, concerning its subject matter. No promises or agreements made simultaneously with or subsequent to execution of this Agreement regarding the subject matter of this Agreement shall be binding unless reduced to writing and signed by both Parties.

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless it is in writing and signed by both Parties.

## **7.0 Arbitration.**

In the event of a dispute between the Executive Director and the Authority with respect to the interpretation of this Agreement or any alleged breach of this Agreement, which cannot be settled amicably by agreement of the parties or through mediation if both parties agree to mediate the dispute, such dispute shall be submitted to and determined by arbitration rules of the American Arbitration Association, and judgment upon the award shall be final, binding and conclusive upon the parties and may be entered in the highest court having jurisdiction. All decisions of the arbitrator shall be final, binding and conclusive on all parties, subject to appeal or being set aside only on the grounds set forth in the California Code of Civil Procedure. Judgment may be entered upon such decision and enforced in accordance with applicable law in any court having competent jurisdiction thereof. The cost of the arbitrator and other incidental costs of arbitration that would not be incurred in a court proceeding shall be borne by the Authority. The parties shall each bear any other of their own costs and their own attorneys' fees in any arbitration proceeding.

**BOTH AUTHORITY AND EXECUTIVE DIRECTOR UNDERSTAND THAT BY USING ARBITRATION TO RESOLVE DISPUTES THEY ARE GIVING UP ANY RIGHT THEY MAY HAVE TO A JUDGE OR JURY TRIAL WITH REGARD TO ALL ISSUES ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ALL ISSUES CONCERNING THE EXECUTIVE DIRECTOR'S EMPLOYMENT.**

DocuSigned by:  
  
45AD8D860797439...

**James Williams**

**Chris Schildt, Board Chairperson**

**8.0 Notices.** All notices, demands, consents, or approvals required under this Agreement shall be in writing and shall be deemed given when delivered personally or three (3) business days after being deposited in the U.S. Mail, first class postage prepaid, return receipt requested, addressed as follows:

If to Authority: Berkeley Housing Authority  
1947 Center Street, 5th Floor  
Berkeley, CA 94704  
Attention: Chairperson, Board of Commissioners

If to Executive Director: James Williams, Executive Director/Secretary  
Berkeley Housing Authority  
1947 Center Street, 5th Floor  
Berkeley, CA 94704

or to such other address as the Parties may designate by written notice as set forth above.

**9.0 Governing Law.** This Agreement shall be governed by the laws of the State of California. It is the responsibility of the Executive Director to be informed of local, state and federal laws and requirements applicable to this Agreement and to perform all work in compliance with those laws and requirements.

**10.0 Confidentiality.** The Executive Director recognizes and acknowledges that he will have access to certain confidential Authority information and of entities affiliated with the Authority and that such information constitutes special and unique property of the Authority and such other entities. The Executive Director will not, during or after the term of this Agreement, disclose any of such confidential information to any person or firm, corporation, association or other entity for any reason or purpose whatsoever, except to authorized representatives of the Authority or the U.S. Department of Housing and Urban Development.

**11.0 Headings.** Titles of parts or sections of this Agreement are inserted for convenience only and shall be disregarded in construing or interpreting its provisions.

**12.0 No Attorneys' Fees.** In the event any action, suit or proceeding is brought for the enforcement of, or the declaration of, any right or obligation pursuant to this Agreement or as a result of any alleged breach of any provision of this Agreement, each Party to this Agreement shall bear and pay all of its or his own individual costs and expenses, including attorneys' fees, and any judgment or decree rendered in such a proceeding shall not include an award thereof. In addition, each party to this Agreement shall bear and pay all of its or his own individual costs and expenses, including attorneys' fees, incurred or to be incurred by them in

negotiating and preparing this Agreement and in carrying out the transactions contemplated by this Agreement.

**13.0 Severability.** If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unreasonable, the remaining provisions shall, nevertheless, continue in full force without being impaired or invalidated in any way.

**14.0 Survivability.** This Agreement shall inure to and be binding upon the successors and assigns of the Authority including specifically and subsequent appointees to the Board of Commissioners and any organization organized to perform the functions now performed by the Authority or any organizations in which the Authority may be merged.

**15.0 Assignment.** This Agreement may not be assigned by, nor shall performance be delegated by Executive Director. This Agreement shall ensure to the benefit of and shall be binding upon the Authority and its successors and assigns.

**16.0 Employee Independent Review.** Executive Director acknowledges that he has had the opportunity and has conducted an independent review of the legal effects of this Agreement.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement as of the date first written above.

**“AUTHORITY”**

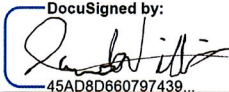
HOUSING AUTHORITY OF THE CITY OF BERKELEY, a public body corporate and politic

By: \_\_\_\_\_  
Chris Schildt, Board Chairperson

Date: \_\_\_\_\_

**“EXECUTIVE DIRECTOR”**

JAMES WILLIAMS, an individual

By:  \_\_\_\_\_  
James Williams

Date: 11/7/2022  
\_\_\_\_\_