



# City of Cambridge

## Executive Department

**YI-AN HUANG**  
City Manager

CMA 2025 #299  
**IN CITY COUNCIL**  
December 15, 2025

To the Honorable, the City Council:

Please see attached a memo from City Solicitor, Megan Bayer regarding Awaiting Report #25-40 that asked for updates to the city's Community Benefits Ordinance.

Very truly yours,

Yi-An Huang  
City Manager



Megan B. Bayer  
City Solicitor

Elliott J. Veloso  
Deputy City Solicitor

Kate M. Kleimola  
First Assistant City Solicitor



Assistant City Solicitors  
Paul S. Kawai  
Sean M. McKendry  
Diane O. Pires  
Sydney M. Wright  
Evan C. Bjorklund  
Franziskus Lepionka  
Andrea Carrillo-Rhoads

## CITY OF CAMBRIDGE

Office of the City Solicitor  
795 Massachusetts Avenue  
Cambridge, Massachusetts 02139

Public Records Access Officer  
Seah Levy

December 15, 2025

Yi-An Huang  
City Manager  
Cambridge City Hall  
795 Massachusetts Avenue  
Cambridge, MA 02139

**Re: *Awaiting Report No. 25-40 of 6/23/25, requesting that the City Manager direct the City Solicitor to draft amendments to the Community Benefits Ordinance that allow for the use of funds for capital expenses, provided that such expenses clearly advance the goals of the Community Benefits program.***

Dear Mr. Huang:

I write in response to the above-referenced City Council order, that requests that I draft amendments to the Community Benefits Ordinance (the "Ordinance") as explained above, and requests that I consult with the Committee Benefits Advisory Committee (the "Committee") concerning amendments to the Ordinance.

I met with the Committee on October 6, 2025, and provided an opinion to the Committee on October 28, 2025. Attached is a copy of the October 28, 2025 opinion which answers questions the Committee had about the application of the anti-aid amendment to the use of Community Benefit Funds and the use of Community Benefit Funds for capital expenses.

The Committee conferred on recommended amendments to the Ordinance to address the use of Community Benefit Funds for capital and operating expenses, as well as other recommended amendments. The additional areas the Committee recommended amending are:

1. Needs Assessment: the Committee recommended amending the Ordinance in way that could be more expedient for the Council, City Manager, and Committee; it also reflects current practices
2. Guiding Principles: the Committee recommended incorporating all guiding principles that have been adopted by the Council, even principles that have been adopted after the Ordinance was enacted
3. Membership: the Committee recommended clarifying nominations and appointments.

I incorporated the recommendations from the Committee and have prepared the attached proposed amendments to the Ordinance. If the Council wishes to move forward with these amendments, I recommend that this communication be put on file and then the future chair of the Ordinance Committee call a meeting in the next term to consider these proposed amendments.

Very Truly Yours,



Megan B. Bayer  
City Solicitor

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*Public Records Access Officer*  
Seah Levy

October 28, 2025

Ellen Semonoff, Chair  
Community Benefits  
Advisory Committee  
Cambridge, MA

***Re: City Council Awaiting Report 25-40 – Possible amendments to the Community Benefits Ordinance that allow for the use of funds for capital expenses***

Dear Ellen,

I am writing to follow up on my meeting with Community Benefit Advisory Committee on October 6, 2025. I met with the Committee to discuss responding to the above-referenced Council Order that requests that city staff consult with the Committee concerning amendments to the Community Benefits Ordinance (the “Ordinance”). The Committee had some questions for me at that meeting, which I answer below, and I suggest how the Committee can help with responding to the Council Order.

### Application of Anti-Aid Amendment to Community Benefit Funds

When we met, we discussed whether the use of Community Benefit Funds is subject to the Anti-Aid Amendment of the Massachusetts Constitution. In a 1968 Opinion, the Supreme Judicial Court (SJC) issued an opinion answering questions of the Massachusetts Senate, and in that opinion determined that “‘Public money’ is money raised by taxation.” Opinion of the Justs., 354 Mass. 779, 784 (1968) (citing Opinion of the Justices, 337 Mass. 777, 781 (1958)). Therefore, the SJC determined that the Anti-Aid Amendment did not apply to funds that are not raised by taxation. Id.

Community Benefits Funds as defined in the Ordinance are “funds offered to and received by the City in connection with the enactment of an amendment to the City’s Zoning Ordinance or other agreements entered into with the City which provide funds to the City and are held by the City to be expended for community benefits or other related purposes.” Accordingly, the funds are not raised by taxation, and a court would likely find are not public money subject to the Anti-Aid Amendment.

Even if the funds were subject to the Anti-Aid Amendment, it does not bar the grant of funds to a private entity but requires a fact specific analysis of whether the use of the funds is permissible. In Commonwealth v. School Comm. of Springfield, 382 Mass. 665 (1981), the Supreme Judicial Court established a three-part test to assess whether expenditure of public funds violates the Anti-Aid Amendment: 1) what is the purpose of the spending because it has to be for a public purpose; 2) to what extent the spending aids a private entity because substantial assistance is likely not permissible; and 3) whether the spending avoids “the political and economic abuses which prompted the passage of [the Anti-Aid Amendment].” A common finding for grants that do not violate the third part of the test is that the benefits were available to the general public and not selectively beneficial to certain organizations. The Springfield test is “not precise” and serves instead as “guidelines to a proper analysis.” Caplan v. Town of Acton, 479 Mass. 69, 74 (2018). The application of the Springfield test is fact-specific and focuses on the particular expenditures at issue.

### The Use of Community Benefits Funds for Capital Expenses

Currently the Ordinance prohibits uses funds for “capital or infrastructure projects or general operational expenses.” If the City Council wants to amend the Ordinance to remove that prohibition, Community Benefits Funds could then be given to organizations for capital or operational expenses.

When there are funds that are subject to the Anti-Aid Amendment, the use of the funds for capital or operating expenses may be in violation of the Anti-Amendment. It will be necessary to do a fact specific analysis to determine if it is a public purpose to fund capital or operating expenses, whether the contribution to the capital or operating expenses is substantial assistance for the organization, and whether the offer of funds was widely available or only available to one or a small group of recipients.

If the funds are not subject to the Anti-Aid Amendment, which appears to be the case with Community Benefit Funds, there is legally no restrictions on how the funds are used, unless the funds are granted to the City for a specific purpose. However, even without any legal restrictions in place, the City has a strong interest in having funds go to uses that benefit the community.

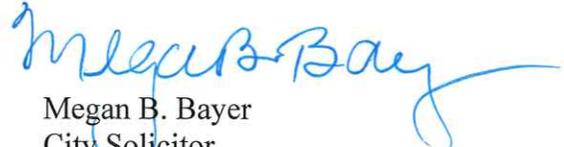
### Assistance Needed from the Committee

Awaiting Report 25-40 directs the City Manager and City Solicitor to consult with the Committee about amendments to the Ordinance “that allow for the use of funds for capital expenses, provided that such expenses clearly advance the goals of the Community Benefits program.” Therefore, it would be helpful to hear from the Committee what recommendations it has for parameters around how funds can be used for capital expenses that still advance the goals of the Community Benefits program.

Additionally, if we are recommending amendments to the Ordinance to the Council, it would be a good time to suggest any other amendments to the Ordinance, so I welcome any other suggestions you have.

We are hoping to get back to the Council in early December, so I would appreciate receiving any input from the Committee in the next few weeks. I am also happy to meet with the Committee again if that would be helpful.

Very truly yours,



Megan B. Bayer  
City Solicitor

[Deletions are in ~~striketrough~~ and additions are underlined and bold]

## Chapter 2.127 COMMUNITY BENEFITS ADVISORY COMMITTEE

### 2.127.010 Established.

There is hereby established a Community Benefits Advisory Committee (the "Committee") to accomplish the purposes set forth herein.

### 2.127.020 Purpose.

The purpose of the Committee is to identify ~~the~~ **the** community benefits needs of the residents of Cambridge based on the priorities established by the City Council and to solicit and evaluate applications **with proposals to address the community benefits needs** ~~for the provision of said services~~ by qualified applicants in order to make recommendations to the City Manager for the allocation of Community Benefits Funds for the award of grant agreements or contracts ~~for the provision of said services~~.

(Ord. 1375, 12/21/2015)

### 2.127.030 Definitions.

"Applicant" shall mean a Community Based Organization applying to the City to provide Community Benefits subject to a grant agreement or contract.

"Application" shall mean a proposal by an Applicant to enter into a grant agreement or contract to provide Community Benefits.

"Community Based Organization" shall mean a non-profit entity registered pursuant to 26 U.S.C. § 501(c)(3) that provides Community Benefits.

"Community Benefits" shall mean the provision of programs or services, **or capital and/or operating expenses of a Community Benefits Organization that are related to and necessary for a Community Benefits Organization to provide programs or services**, that directly benefit Cambridge residents including but not limited to human services, the arts, cultural enrichment, sustainability measures, public health, housing, educational programs focused on science, technology, engineering, arts and mathematics ("STEAM") and other areas of community enrichment provided by Community Based Organizations.

"Community Benefits Advisory Committee" or "Committee" shall mean the Committee established by this Chapter and appointed by the City Manager.

"Community Benefits Funds" or "Funds" shall mean any funds offered to and received by the City in connection with the enactment of an amendment to the City's Zoning Ordinance or other agreements entered into with the City which provide funds to the City and are held by the City to be expended for community benefits or other related purposes.

"Community Benefits Stabilization Fund" or "Stabilization Fund" shall mean a stabilization fund established by the City to hold Community Benefits Funds.

"Funding Priorities" shall mean funding goals declared by the City Council for the expenditure of Community Benefits Funds in Cambridge.

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## 2.127.040 City Council Goalsetting—Appropriations.

The City Council shall periodically **review and update** the City's Funding Priorities based in part on **the Committee's identification and assessment of a Cambridge's most pressing Community Benefits needs assessment conducted every three to five years and, which will be reported to** submitted by the City Manager in order to identify Cambridge's most pressing community benefits needs. In his report, ~~t~~The City Manager shall **may** make recommendations **to the City Council** regarding the appropriation of funds ~~to~~**from** the Stabilization Fund. The City Council may make appropriations ~~to the Stabilization Fund~~ after it receives the City Manager's annual recommendations.

## 2.127.050 Powers and Duties of the Committee.

To carry out its responsibilities under this Chapter, the Committee shall:

- A. Make recommendations to the City Manager for the award of grant agreements or contracts for Community Benefits to be paid for from the Stabilization Fund consistent with the City Council's Funding Priorities.
- B. Establish rules, regulations and guidelines to provide for the proper administration and implementation of the Committee's responsibilities in consultation with City staff and as approved by the City Manager.

## 2.127.060 Committee Process.

The Committee shall conduct ~~a public annual meeting and additional~~ public meetings as needed to accomplish the following:

- A. Prioritize needs, possibilities and resources regarding Community Benefits based on the City Council's Funding Priorities. Subject to and consistent with the City Council's Funding Priorities, the Committee shall consider the following guiding principles:

### Frame Needs Thoughtfully

- 1. Fund programs or services that directly benefit Cambridge residents.
- 2. Emphasize funding priorities established by the City Council informed by the Committee's identification and assessment of needs.
- 3. Prioritize support for vulnerable and underserved populations.
- 4. Consider neighborhood(s) impacted by development projects.

### Build on Existing Assets and Programs

- 5. Consider other public resources allocated to a neighborhood in order to better understand unmet needs.
- 6. Foster awareness of and connection to existing programs and services.
- 7. Prioritize approaches that leverage other private and public resources.
- 8. Encourage an asset-based approach that recognizes and builds on the resilience of Cambridge residents and communities.

### Promote Holistic Approaches, Innovation and Collaboration

- 9. Recognize the inter-connectedness among community needs.

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10. Emphasize holistic and creative ideas that promote prevention and coordination across systems and organizations.
  11. Remain open to bold and innovative approaches to challenging issues.
  12. Recognize that addressing community challenges takes time and provide the latitude for longer term interventions.
  13. Prioritize funding for nonprofit applicants that promote collaboration, partnership and collective impact.
  14. Encourage and incorporate program evaluation to identify which strategies work best.

Simplify the Application Process

15. Establish a transparent, inclusive, and collaborative process
  16. Provide support and technical assistance to nonprofits in the application process to ensure equal opportunity and access.
  17. Consider opportunities for renewable grants to returning nonprofit providers that have an excellent performance evaluation record and programmatic success.
- ~~1. Fund programs or services that directly benefit Cambridge residents.~~
  - ~~2. Emphasize funding priorities established by the City Council informed by the outcomes of the needs assessment.~~
  - ~~3. Consider neighborhood(s) impacted by development projects.~~
  - ~~4. Consider other public resources allocated to a neighborhood in order to better understand unmet needs.~~
  - ~~5. Prioritize funding for nonprofit applicants that promote collaboration, partnership and collective impact.~~
  - ~~6. Establish a transparent, inclusive, and collaborative process.~~
  - ~~7. Provide support and technical assistance to nonprofits in the application process to ensure equal opportunity and access.~~
  - ~~8. Provide opportunities for renewable grants to returning nonprofit providers that have an excellent performance evaluation record and programmatic success.~~
- B. Develop requests for Applications to provide Community Benefits consistent with the City Council's Funding Priorities.
  - C. Evaluate Applications for the provision of Community Benefits.
    - ~~1. The Committee shall not consider Applications requesting expenditures for an Applicant's capital or infrastructure projects or general operational expenses.~~
  - D. Develop or establish recommendations to the City Manager for the award of a grant agreement or contract for the provision of Community Benefits.

**2.127.070 Membership—Appointment—Term.**

- A. The Committee shall consist of thirteen members appointed by the City Manager, including the City Manager or his or her designee who shall serve as the Chair.
- B. The members shall be appointed for terms of three years. The term of the City Manager or that of his or her designee and any City staff designees shall not expire.

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- C. The Committee shall be comprised of the following representatives—three **(3)** members shall be representatives of non-profit organizations that provide services to Cambridge residents; three **(3)** members shall be City staff designees including the City Manager or his or her designee; four **(4)** members shall be Cambridge residents, who shall be residents of the City at the time of appointment; one **(1)** member shall be a representative of the Cambridge Community Foundation; one **(1)** member shall be a representative of the City's business or property development community; and one **(1)** member shall be a representative from one of the City's universities or colleges. At least two **(2)** of the non-profit representatives shall be **selected by and provided to the City Manager** ~~appointed from a list of at least four nominees provided by the Cambridge Nonprofit Coalition so long as that organization submits said list~~ **the selections** in a timely fashion.
- D. If any appointed Committee member misses half of the scheduled meetings of the Committee during any calendar year, the absences of the Committee member shall be reviewed by the Chair and the Chair may recommend dismissal and replacement of such member to the City Manager.

### **2.127.080 Officers—Quorum—Rules and Regulations—Committees.**

- A. The City Manager shall appoint a Vice Chair. The Vice Chair shall chair a meeting or meetings in the Chair's absence.
- B. Seven members shall constitute a quorum for the purpose of convening a meeting and of conducting the business of the Committee. The Committee shall approve its actions by majority vote.
- C. All records of the Committee shall be public except as provided by State law.
- D. Committee members shall serve without compensation.
- E. Committee members shall be classified as special municipal employees for the purpose of Chapter 268A of the Massachusetts General Laws.

### **2.127.090 Effective Date.**

This Chapter shall take effect upon its passage.