

# law office of julian gross

## memorandum

*to:* Richmond Community Working Group for Berkeley Global Campus

*from:* Julian Gross

*date:* December 10, 2015

*re:* *Community Benefits Agreement for Berkeley Global Campus*

I am providing legal assistance to the Raise Up Richmond Coalition, regarding discussions of the University of California's community benefits approach for the buildout of the Berkeley Global Campus (BGC). The Raise Up Richmond Coalition includes the Richmond ACCE; the Contra Costa Interfaith Steering Committee; the American Federation of State, County, and Municipal Employees, Local 3299; and other local stakeholders, including several members of the Richmond Community Working Group.

This memorandum sets forth the Raise Up Richmond Coalition's core principles regarding structure and enforceability of a community benefits agreement (CBA) for the BGC buildout. On this subject, I have reviewed U.C. Chancellor Nicholas Dirks' open letter of May 28, 2015, and have spoken with Ruben Lizardo, U.C. Berkeley's Director of Local Government and Community Relations. We appreciate U.C. Berkeley providing information on this topic in the Chancellor's letter and in conversations.

In general, a CBA is a legally enforceable contract between community-based organizations and the developers or sponsors of a large development project. Under a CBA, a project proponent agrees to certain commitments regarding community benefits to be delivered if the project moves forward, and community-based organizations withdraw any legal and administrative opposition to the project, in light of the project's legally-binding community benefits commitments. CBAs supplement, but do not displace, the role of local government in negotiation over development projects. In the best circumstances, CBAs constitute a true partnership between a community and proponents of a development project, setting the groundwork for a long-term collaborative effort to ensure a thriving project and maximum community benefit and support.

As you know, the Raise Up Richmond Coalition has long advocated for a CBA for the BGC buildout, as a cornerstone of a sustainable partnership between U.C. Berkeley and the Richmond community. In order to be effective in this regard, a CBA will need to have several attributes:

- (1) The CBA should be legally binding, and entered into by U.C. Richmond and a range of stakeholder organizations in Richmond.
- (2) The CBA should be enforceable by all parties.
- (3) The CBA should apply both to U.C. Berkeley's operations at the BGC, and to operations of private contractors and to developers that participate in the project over time.
- (4) The CBA should be specific regarding operational and financial commitments required of project participants.
- (5) The CBA should require implementation and compliance information regarding community benefits to be public information, and require U.C. Berkeley to release semi-annual reports on community benefits implementation.

After review of the Chancellor's letter and my conversation with Ruben Lizardo, it appears that U.C. Berkeley is in agreement with numbers (1)-(3), above. However, the prospective CBA has been referred to as a "Compact." More important than the name of the document are its contents and legal attributes. Any document that does not meet the criteria set forth above does not constitute a meaningful commitment by U.C. Berkeley, would not receive the support of the Raise Up Richmond Coalition, and should not receive the support of the Richmond Community Working Group.

The Chancellor's letter indicates that implementation of the CBA will require supplemental agreements in the future, entered into by U.C. Berkeley and other stakeholders and project participants. Implementation through future agreements is not a problem in and of itself, and is routinely part of CBA implementation. However, the need for future implementation agreements cannot be an impediment to specific commitments that can be entered into at the outset of a project, such as workable local hiring requirements for certain types of jobs, or an overall living wage requirement.

The Raise Up Richmond Coalition supports the Richmond Community Working Group's call for a legally binding CBA meeting the five criteria set forth above. Such an agreement will position U.C. Berkeley and the Richmond community for a long-term, successful partnership to maximize the community benefits from the BGC buildout. We commend the Richmond Community Working Group for its hard work on these issues.