

AGENDA



BERKELEY CITY COUNCIL MEETING

Tuesday, October 29, 2019

6:00 PM

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – CHERYL DAVILA
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900.

The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call:

Ceremonial Matters: *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

1. Recognition of Joy's Clothing
2. Recognition of Carlos Baron
3. Recognition of Domestic Violence Awareness Month

City Manager Comments: *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

Public Comment on Non-Agenda Matters: *Persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder*

of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.

Consent Calendar

The Council will first determine whether to move items on the agenda for “Action” or “Information” to the “Consent Calendar”, or move “Consent Calendar” items to “Action.” Items that remain on the “Consent Calendar” are voted on in one motion as a group. “Information” items are not discussed or acted upon at the Council meeting unless they are moved to “Action” or “Consent”.

No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to “Action.” Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

Consent Calendar

- 1. Adopt an Ordinance Amending Berkeley Municipal Code Chapter 2.99 to Prohibit City Use of Face Recognition Technology (Reviewed by the Public Safety Committee)**
From: Councilmembers Harrison, Davila, Bartlett, and Hahn
Recommendation: Adopt second reading of Ordinance No. 7,676-N.S. amending Berkeley Municipal Code Chapter 2.99 to prohibit the City from acquiring, retaining, requesting, accessing, or using: (1) any face recognition technology, or (2) any information obtained from face recognition technology.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

Consent Calendar

- 2. Ban Racial, Ethnic, Cultural, and Religious Discrimination on the Basis of Hairstyle or Headwear** *(Reviewed by the Health, Life Enrichment, Equity & Community Committee)*
From: Councilmembers Robinson, Davila, Bartlett, and Hahn
Recommendation: Adopt second reading of Ordinance No. 7,677-N.S. adopting a new Section of the Berkeley Municipal Code: Chapter 13.23 DISCRIMINATION ON THE BASIS OF HAIRSTYLE OR HEADWEAR IN EMPLOYMENT, HOUSING, AND PUBLIC ACCOMMODATIONS, prohibiting grooming or appearance policies which target natural or traditional hair, hairstyles, or headwear, and refer to the City Manager to consider the operational requirements of enforcement of the ordinance, including what effective and appropriate enforcement would entail or what amendments to the Chapter would be necessary to perform such enforcement.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
- 3. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for the Council meetings of September 3, 2019 (special closed), September 10, 2019 (special closed and regular), September 17, 2019 (special closed and special) and September 24, 2019 (special closed and regular).
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 4. City Council Rules of Procedure and Order Revisions** *(Reviewed by the Agenda & Rules Committee)*
From: City Manager
Recommendation: Adopt a Resolution revising the City Council Rules of Procedure and Order to integrate the previously adopted regulations for policy committees and make associated changes to other sections; update outdated references and practices; conform to the Open Government Ordinance; make other technical corrections; and rescinding any preceding amendatory resolutions.
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 5. Revised Conflict of Interest Code**
From: City Manager
Recommendation: Adopt a Resolution adopting a revised Conflict of Interest Code for the City of Berkeley and rescinding Resolution No. 68,201–N.S.
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900

Consent Calendar

- 6. Contract: Berkeley Convention and Visitor's Bureau, d.b.a. Visit Berkeley**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a sole source contract and any amendments with the Berkeley Convention and Visitors' Bureau, d.b.a. Visit Berkeley, not to exceed \$7,966,000 of Berkeley Tourism Business Improvement District (BTBID) funds to support tourism marketing and promotion for the period through June 30, 2027.
Financial Implications: See report
Contact: Jordan Klein, Economic Development, (510) 981-7530
- 7. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on October 29, 2019**
From: City Manager
Recommendation: Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.
Financial Implications: Various Funds - \$160,000
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 8. Recommendation and Contract: Management Partners for Management Consultancy Services (Reviewed by the Agenda & Rules Committee)**
From: City Manager
Recommendation: Adopt a Resolution accepting the recommendation of the City Council Agenda & Rules Committee authorizing the City Manager or her designee to execute a contract and any amendments or extensions with Management Partners in an amount not to exceed \$45,500 for the period from November 12, 2019 through July 31, 2021 to provide management consultancy services to the City Council of the City of Berkeley to conduct a performance evaluation of the City Manager.
Financial Implications: General Fund - \$45,500
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 9. Contract No. 103580-1 (9821) Amendment: First Alarm Security & Patrol, Inc., dba First Security Services for Citywide Security Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to increase the not-to-exceed value of Contract No. 103580-1 (9821) by \$300,000, from \$2,784,798 to \$3,084,798 to fund continued services through the contract expiration date of February 29, 2020. The \$300,000 additional spending authority provides the City with the necessary funding to finalize the on-going RFP #19-11316-C (Re-issued) for Citywide Unarmed Security Guard Services.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300

Consent Calendar

- 10. Contract No. 10874B Amendment: Street Level Advisors for Zoning and Development Fee Feasibility Analyses**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 10874B with Street Level Advisors, to analyze the impact of fees and other variables on development project feasibility, increasing the contract amount by \$150,000 to a new total not-to-exceed contract amount of \$225,400 and extending the contract period to December 31, 2022.
Financial Implications: Permit Service Center Fund - \$150,000
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400
- 11. Contract No. 10742 Amendment: Redwood Toxicology Services for Drug and Alcohol Testing**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 10742 and any necessary future amendments with Redwood Toxicology Services for drug and alcohol testing for the Police Department, increasing the amount by \$200,000 for a total not to exceed amount of \$250,000 subject to the City's annual budget appropriation process.
Financial Implications: General Fund - \$200,000
Contact: Andrew Greenwood, Police, (510) 981-5900
- 12. Approval of One Additional Meeting for Children, Youth, and Recreation Commission in Calendar Year 2019**
From: Children, Youth, and Recreation Commission
Recommendation: Adopt a Resolution approving one additional meeting for the Children, Youth, and Recreation Commission in calendar year 2019.
Financial Implications: Minimal
Contact: Stephanie Chu, Commission Secretary, (510) 981-6700
- 13. Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees**
From: Auditor
Recommendation: We recommend City Council request that the City Manager report back by April 28, 2020, and every six months thereafter, regarding the status of our audit recommendations until reported fully implemented by the Human Resources Department. They have agreed to our findings and five of our recommendations. Please see our report for their complete response.
Financial Implications: See report
Contact: Jenny Wong, Auditor, (510) 981-6750

Council Consent Items

- 14. Budget Referral: Berkeley Age-Friendly Continuum**
From: Mayor Arreguin and Councilmember Bartlett
Recommendation: Refer to the mid-year budget process \$20,000 for the Berkeley Age-Friendly Continuum.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 15. Extension of the Joint Subcommittee for the Implementation of State Housing Laws**
From: Mayor Arreguin and Councilmember Harrison
Recommendation: Adopt a Resolution extending the Joint Subcommittee for the Implementation of State Housing Laws (JSISHL) to complete its work by July 2020, with Joint Subcommittee providing its recommendations to Council by the end of September 2020.
Financial Implications: Staff time
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 16. Budget Referral: Funding Illegal Dumping Component of “Clean & Livable Commons Initiative”**
From: Councilmembers Kesarwani and Harrison, and Mayor Arreguin
Recommendation: Refer to the November budget process consideration for providing \$200,000 to fund a key component of the “Clean & Livable Commons Initiative” unanimously passed by the City Council on February 28, 2019 to: -Add lighting, cameras and signs at strategic locations in Berkeley to help deter illegal dumping; and -Explore increasing the penalties for illegal dumping.
Financial Implications: See report
Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110
- 17. Referral to the Civic Arts Commission to develop a grant program available for arts and cultural organizations to support retaining and improving creative spaces for artists**
From: Councilmembers Kesarwani, Droste, Wengraf, and Hahn
Recommendation: Referral to the Civic Arts Commission to prioritize within their current Work Plan creating a process for awarding competitive grants to Berkeley-based arts and cultural organizations that will help support their ability to stay in Berkeley.
Financial Implications: Staff time
Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

Council Consent Items

18. Information on the City's Existing Code Enforcement Practices for Residential Properties

From: Councilmember Kesarwani

Recommendation: Request the City Manager provide a brief report or presentation on the City's code enforcement practices for residential properties for the purposes of educating the City Council and the public on current practice. The requested information may include: -Reporting on the various ways in which code enforcement issues have been brought to the attention of the City over the last five years (i.e., neighbor complaint, 911 call to the property, etc.); -How various code enforcement issues at residential properties are currently handled (i.e., which City departments and which type of staff are involved, what they do, etc.); -Timeframe and mechanisms for achieving code compliance at residential properties; -Any existing assistance programs available to support property owners found to have code violations, such as financial assistance, mental health services, technical advice, etc.; -Specific learnings/change in City practices resulting from the Leonard Powell receivership case; -Other information deemed relevant and appropriate to understand the City's current code enforcement practices for residential properties.

Financial Implications: Staff time

Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

19. Consider The Homeless Films, Food & Discussion Event on November 5, 2019: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

From: Councilmembers Davila and Bartlett

Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Cheryl Davila, to support the Consider The Homeless "Films, Food & Discussion" Event on November 5, 2019, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila, the Mayor and any other Councilmembers who would like to contribute.

Financial Implications: Councilmember's Discretionary Funds - \$250

Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

20. Letter in Support of HR 1595: Secure And Fair Enforcement Banking Act of 2019

From: Councilmembers Davila and Harrison

Recommendation: Send a Letter to Congresswoman Barbara Lee in Support of HR 1595: Secure And Fair Enforcement Banking Act of 2019, and direct the city clerk or designee to send a letter to our state representatives.

Financial Implications: None

Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

Council Consent Items

- 21. Budget Referral: Allocate \$27,000 from the General Fund to Secure Potential Matching State Certified Local Government Landmarks Preservation Grants From: Councilmembers Harrison and Hahn**
Recommendation: Refer to the FY 2021 November Budget Process to allocate \$27,000 from the General Fund to secure potential matching state Certified Local Government landmarks preservation grant.
Financial Implications: See report
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 22. Amending Chapter 19.34 of the Berkeley Municipal Code to Expand Automatic Gas Shut-Off Valve Requirements in Multifamily, Condominium and Commercial Buildings Undergoing Renovations and to All Existing Buildings Prior to Execution of a Contract for Sale or Close of Escrow (Reviewed by the Facilities, Infrastructure, Technology, Environment & Sustainability Committee) From: Councilmembers Harrison, Wengraf, Hahn, and Bartlett**
Recommendation: Refer to the Disaster and Fire Safety Commission to consider an ordinance amending Berkeley Municipal Code (BMC) 19.34.040 to expand requirements for automatic natural gas shut-off valves or excess flow valves in multifamily, condominium and commercial buildings undergoing renovations and in all existing buildings prior to execution of a contract for sale or close of escrow. Ask the Commission to consider other triggers as appropriate.
Financial Implications: See report
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 23. Oversized Vehicle Restrictions on Bicycle Boulevards From: Councilmembers Harrison, Robinson, and Bartlett**
Recommendation:
1. Refer to the Transportation Commission a draft ordinance amending Berkeley Municipal Code Chapter (BMC) 14.56.070 to prohibit commercial trucks exceeding three tons gross vehicle weight from utilizing streets comprising the bicycle boulevards network.
2. Refer to the City Manager to update BMC 14.56.070 as more Berkeley streets become Bicycle Boulevards, as outlined in the 2017 Bicycle Plan.
Financial Implications: See report
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 24. Budget Referral and Approving Installation of Cameras at Ohlone Park Mural From: Councilmembers Harrison and Kesarwani**
Recommendation: 1. Pursuant to Berkeley Municipal Code 2.99.060, declare that a camera installed in Ohlone Park at the corner of Hearst Street and Milvia Street will provide benefits to the community that outweigh costs and concerns.
2. Refer \$6,000 to the FY20 November 2019 AAO Process for the purpose of purchasing and installing a surveillance camera.
Financial Implications: See report
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

Action Calendar

The public may comment on each item listed on the agenda for action as the item is taken up. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

The Presiding Officer will request that persons wishing to speak line up at the podium to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

Action items may be reordered at the discretion of the Chair with the consent of Council.

Action Calendar – Public Hearings

Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

Each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.

25. **Renewal of the Elmwood Avenue BID for Calendar Year 2020**

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Elmwood Business Improvement District (hereafter, “the District”, “the Elmwood BID” or “the BID”) for 2019-20 and, if no majority protest exists, levy annual assessments in the District for calendar year 2020 to finance services and improvements and authorize a fiscal agency contract with Elmwood Business Association for receipt and expenditure of District funds.

Financial Implications: See report

Contact: Jordan Klein, Economic Development, (510) 981-7530

Action Calendar – Public Hearings

26. Renewal of the Solano Avenue BID for Calendar Year 2020

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Solano Avenue Business Improvement District (hereafter, “Solano BID Advisory Board” or “the BID”) for 2019-20 and, if no majority protest exists, levy annual assessments in the District for calendar year 2020 to finance services and improvements and authorize a fiscal agency contract for receipt and expenditure of District funds.

Financial Implications: See report

Contact: Jordan Klein, Economic Development, (510) 981-7530

27. Amend BMC Chapter 14.52 Adding the North Shattuck Metered Parking Area to the goBerkeley Program

From: City Manager

Recommendation: Conduct a public hearing, and upon conclusion adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 14.52 to add the North Shattuck metered parking area to the goBerkeley parking program.

Financial Implications: See report

Contact: Phillip Harrington, Public Works, (510) 981-6300

Action Calendar – Old Business

28. Referral Response: Lava Mae Mobile Shower and Hygiene Services *(Continued from October 15, 2019)*

From: City Manager

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

29. Repealing and Reenacting BMC Chapter 13.104, Wage Theft Prevention *(Continued from October 15, 2019)*

From: Mayor Arreguin and Councilmembers Harrison, Droste, and Hahn

Recommendation: Adopt second reading of Ordinance No. 7,668-N.S. repealing and reenacting BMC Chapter 13.104, Wage Theft Prevention to improve enforcement of the ordinance by requiring a signed acknowledgement of ordinance requirements and signed attestation at completion of the project.

First Reading Vote: All Ayes.

Financial Implications: Staff time

Contact: Jesse Arreguin, Mayor, (510) 981-7100

Action Calendar – Old Business

- 30. Referral: Telegraph Shared Streets** *(Continued from October 15, 2019)*
From: Councilmember Robinson, Mayor Arreguin, and Councilmembers Harrison and Droste
Recommendation: Refer to the City Manager to develop and return to Council with a plan to implement the shared streets proposal outlined in the Telegraph Public Realm Plan, including identification of potential regional funding sources for the project.
Financial Implications: See report
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
- 31. Referral: Develop a Bicycle Lane and Pedestrian Street Improvements Policy** *(Continued from October 15, 2019)*
From: Councilmembers Robinson, Droste, Harrison, and Mayor Arreguin
Recommendation: Refer to the City Manager to develop a comprehensive ordinance governing a Bicycle Lane and Pedestrian Street Improvements Policy that would:
1. Require simultaneous implementation of recommendations in the City's Bicycle and Pedestrian Plans when City streets are repaved, if one or more of the following conditions are met: (a) Bicycle Plan recommendations can be implemented using quick-build strategies that accommodate transit operations. (b) Pedestrian Plan recommendations can be implemented using quick-build strategies that accommodate transit operations. (c) The Bicycle Plan recommends studying protected bike lanes as part of a Complete Street Corridor Study in the Tier 1 Priority list. (d) Improvements are necessary to comply with the Americans with Disabilities Act.
 2. Prioritize bikeways and Vision Zero high-fatality, high-collision streets under the five-year Paving Plan by requiring that 50 percent of the repaving budget go towards such streets until they meet a minimum surface standard established with input from the Public Works and Transportation Commissions.
 3. Encourage the use of quick builds by expediting quick-build projects under \$1 million. (a) "Quick-build" is defined as projects that a) require non-permanent features such as bollards/paint/bus boarding islands, b) make up less than 25 percent of the total repaving cost for that street segment, and c) can be a component of a Complete Street Corridor Study that includes evaluation after installation.
 4. Require staff to report progress back to Council every two years.
- Furthermore, refer to the City Manager to draft a revised version of the City's Complete Streets Policy that would clarify that the presence of an existing or planned bikeway parallel to an arterial does not exempt projects along said arterial from bicycle and micromobility improvements under the Policy.
Financial Implications: Staff time
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

Action Calendar – New Business

32. Reserving General Funds for Housing Trust Fund Program Predevelopment Applications for 2526 San Pablo Avenue, 2001 Ashby Avenue, and 2321-2323 10th Street and Possible Measure U1 Funding Reservation

From: City Manager

Recommendation: Adopt a Resolution:

1. Reserving General Funds received pursuant to Measure U1 in the following amounts: -\$500,000 for Satellite Affordable Housing Associates' new construction development at 2527 San Pablo Avenue; and -\$1.2 million for Resources for Community Development's new construction development at 2001 Ashby Avenue; and -\$50,000 for Northern California Land Trust's renovation of 2321-2323 10th Street.

2. Conditioning NCLT's predevelopment loan on the organization demonstrating compliance with the requirements of its 2017 Development Loan Agreement for 1340-48 Blake Street and 2425 California Street, including: -Updating its plan for assessing the feasibility of converting 1340-48 Blake and 2425 California to cooperatives; and -Updating its organizational documents to reflect a tripartite structure.

3. Conditioning the loan for 2001 Ashby Avenue on RCD's evaluating ways to reduce or eliminate the project's proposed parking spaces and/or parking footprint, if possible, in consideration of the needs of the residents, community services space, and climate change mitigation.

4. Authorizing the City Manager to execute all original or amended documents or agreements to effectuate this action.

Financial Implications: See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

Action Calendar – New Business

33a. Recommendation to Modify Policies Related to the Enforcement of the Berkeley Smoke-Free Multi-Unit Housing Ordinance

From: Housing Advisory Commission

Recommendation: Approve modifications to policies related to the enforcement of the Smoke-Free Multi-Unit Housing Ordinance, as follows:

1. Increase staffing to implement enforcement of the ordinance as part of the next budget;
2. Improve signage related to the ordinance in residential buildings;
3. Make the complaint process less onerous and more user-friendly, including enabling complainants to submit complaints electronically, providing complaint forms in different languages, and removing language requiring the statements to be “sworn,” and considering other, less threatening language that still expects a complaint be provided under the best of appellant’s knowledge;
4. Relax the current requirements around how the Ordinance-based complaint form must be completed in order to be processed (e.g., removing the requirement of providing two separate complaints from different individuals within a six-month period, if the building contains two or fewer units, removing the requirement of providing a sworn statement under penalty of perjury); and
5. Refer to the Community Health and Cannabis Commissions the question of whether the use of recreational (non-medical) cannabis should be incorporated into the Smoke-Free Housing Ordinance.

Financial Implications: See report

Contact: Mike Uberti, Commission Secretary, (510) 981-7400

33b. Companion Report: Recommendation to Modify Policies Related to the Enforcement of the Berkeley Smoke-Free Multi-Unit Housing Ordinance

From: City Manager

Recommendation: The City Manager appreciates the Housing Advisory Commission’s efforts to strengthen the implementation of the Smoke-free Multi-Unit Housing ordinance and recommends that the proposed modifications be referred to the City Manager Office for an analysis of the financial and legal feasibility of the proposed changes.

Financial Implications: See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

Council Action Items

34. **Proposed Formula Retail (Chain Store) Regulations**

From: Councilmember Hahn

Recommendation:

1. Refer to the City Manager and Planning Commission to finalize and return to the City Council for adoption an Ordinance and related amendments to the Berkeley Municipal Code, if any, based on the Draft Formula Retail Ordinance attached hereto, to establish Formula Retail regulations for Commercial and Manufacturing Districts in the City of Berkeley.
2. Refer to the City Manager and Planning Commission to: a. Recommend establishment of Business District boundaries and names, as provided for in Section 23E.18.030(B) of the proposed Formula Retail Ordinance, and b. Through a process that includes public notice and input, as described in the proposed Formula Retail Ordinance, recommend for each Business District whether to allow unlimited Formula Retail, limited Formula Retail (some or all use categories allowed with a Use Permit, Neighborhood Notice, Design Review and findings) or to prohibit Formula Retail.

Financial Implications: See report

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

35. **Referral: Measures to Address Traffic Enforcement and Bicycle Safety**

From: Councilmember Robinson

Recommendation:

1. Refer to the Transportation Commission to consider a Resolution deprioritizing enforcement of the Idaho Stop and Dead Red conventions for persons operating a bicycle, after the operator has yielded to any other road users with the right of way, by prohibiting the use of any City funds or resources in assisting in the enforcement or issuance of citations for bicyclist violations of California Vehicle Code Sections 22450(a) and 21453(a).
2. Refer to the City Manager to develop a ticket diversion program to educate bicyclists as an alternative to monetary fines related to other infractions, and to ensure integration of Vision Zero principles in implementation of state Office of Traffic Safety grants.
3. Refer to the City Manager to develop a plan to calm and divert motor vehicle traffic on bicycle boulevards to provide people who bicycle and walk a safe, comfortable and convenient mobility experience by adding or reconfiguring stop signage and other traffic calming measures, per the recommendations of the 2017 Bicycle Plan.

Financial Implications: See report

Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

Information Reports

36. **City Council Short Term Referral Process – Monthly Update**

From: City Manager

Contact: Mark Numainville, City Clerk, (510) 981-6900

Information Reports

- 37. Referral Response: City Property for Affordable Housing and Modular Micro-Unit Buildings**
From: City Manager
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
- 38. LPO NOD: 1440 Hawthorne Terrace/#LMIN2018-0003**
From: City Manager
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400
- 39. LPO NOD: 1450 Hawthorne Terrace/#LMIN2018-0002**
From: City Manager
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400
- 40. LPO NOD: 2018-36 University Avenue/#LMSAP2019-0002 for the UC Theater Building**
From: City Manager
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400
- 41. goBerkeley Parking Management Program - Parking Rate and Time Limit Adjustments for New North Shattuck Area for December 1, 2019**
From: City Manager
Contact: Phillip Harrington, Director, Department of Public Works (510) 981-6303
- 42. Children, Youth and Recreation Commission 2019 Work Plan**
From: Children, Youth, and Recreation Commission
Contact: Stephanie Chu, Commission Secretary, (510) 981-6700
- 43. Civic Arts Commission Fiscal Year 2020 Work Plan**
From: Civic Arts Commission
Contact: Jennifer Lovvorn, Commission Secretary, (510) 981-7530
- 44. Fiscal Year 2020 Commission on Aging Work Plan**
From: Commission on Aging
Contact: Richard Castrillon, Commission Secretary, (510) 981-5190
- 45. Berkeley Energy Commission Work Plan for 2019-2020**
From: Energy Commission
Contact: Billi Romain, Commission Secretary, (510) 981-7400
- 46. Report from Sister City Delegation to Gongju, Republic of Korea**
From: Mayor Arreguin and Councilmember Robinson
Contact: Jesse Arreguin, Mayor, (510) 981-7100

Public Comment – Items Not Listed on the Agenda

Adjournment

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33), via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx> and KPFB Radio 89.3.

Archived indexed video streams are available at <http://www.cityofberkeley.info/citycouncil>. Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk Department at 2180 Milvia Street. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <http://www.cityofberkeley.info>.

Agendas and agenda reports may be accessed via the Internet at <http://www.cityofberkeley.info/citycouncil> and may be read at reference desks at the following locations:

City Clerk Department
2180 Milvia Street
Tel: 510-981-6900
TDD: 510-981-6903
Fax: 510-981-6901
Email: clerk@cityofberkeley.info

Libraries:
Main - 2090 Kittredge Street
Claremont Branch – 2940 Benvenue
West Branch – 1125 University
North Branch – 1170 The Alameda
South Branch – 1901 Russell

COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

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***I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on October 17, 2019.***



Mark Numainville, City Clerk

## **Communications**

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record. Copies of individual communications are available for viewing at the City Clerk Department and through [Records Online](#).*

### **5G Telecom**

1. Elizabeth Starr
2. Vivian Warkentin
3. Phoebe Anne Sorgen

### **RV Parking Under University Avenue**

4. Berkeley Warehouse (2)
5. Stacie Gancayco-Adlao, on behalf of Zen Booth
6. Danielle Rose Hacker
7. Genevieve Wilson

### **City Manager Web Page**

8. David Lerman

### **Kiwibots**

9. Therese Fitzpatrick (2)

### **Acquisition and Use of Surveillance Technology, GPS Tracking, and Biometric Time Clocks Notice of Violation**

10. Weinberg, Roger & Rosenfeld, on behalf of SEIU Local 1021

### **Racial Disparities in Homeless Population**

11. Erica Etelson

### **Endorse Ratification of U.N. Convention on the Rights of the Child**

12. Peace and Justice Commission

### **Downtown Street Construction**

13. Paul Glusman

**Berkeley Low Income Housing**

14. Linda Franklin (2)

**Experience Contesting a Parking Violation**

15. Tejal Bhamre

**Manufactured Housing**

16. Avram Gur Arye (3)

**Encampments/Homelessness**

17. Eric Friedman

**Parking on Narrow City Streets**

18. Paul Casperson and Marilyn Pollack

**Safe Passages Project Pilot**

19. JoAnn Lorber

**Police Review Commission Amendment on the 2020 Ballot**

20. Ammar Ansari

21. Sarah Shehata

22. Emma Gobler

23. Meghan Schwartz

**Berkeley Social Housing**

24. Hannah Forsberg

**PG&E Email Addresses**

25. Juty Blue

**Traffic Circle Trees**

26. Donna Mickleson

**Supplemental Communications and Reports**

*Items received by the deadlines for submission will be compiled and distributed as follows. If no items are received by the deadline, no supplemental packet will be compiled for said deadline.*

- **Supplemental Communications and Reports 1**  
Available by 5:00 p.m. five days prior to the meeting.
- **Supplemental Communications and Reports 2**  
Available by 5:00 p.m. the day before the meeting.
- **Supplemental Communications and Reports 3**  
Available by 5:00 p.m. two days following the meeting.

## ORDINANCE NO. 7,676-N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 2.99 TO PROHIBIT CITY USE  
OF FACE RECOGNITION TECHNOLOGY

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That the Berkeley Municipal Code Section 2.99.020 is amended to read as follows:

**2.99.020 Definitions**

The following definitions apply to this Chapter:

1. "Surveillance Technology" means an electronic device, system utilizing an electronic device, or similar technological tool used, designed, or primarily intended to collect audio, electronic, visual, location, thermal, olfactory, biometric, or similar information specifically associated with, or capable of being associated with, any individual or group. Examples of covered Surveillance Technology include, but are not limited to: cell site simulators (Stingrays); automatic license plate readers; body worn cameras; gunshot detectors (ShotSpotter); facial recognition software; thermal imaging systems, except as allowed under Section 1(d); social media analytics software; gait analysis software; and video cameras that record audio or video and can remotely transmit or can be remotely accessed.

"Surveillance Technology" does not include the following devices or hardware, unless they have been equipped with, or are modified to become or include, a Surveillance Technology as defined in Section 1 (above):

- a. Routine office hardware, such as televisions, computers and printers, that is in widespread public use and will not be used for any surveillance functions;
- b. Handheld Parking Citation Devices, that do not automatically read license plates;
- c. Manually-operated, portable digital cameras, audio recorders, and video recorders that are not to be used remotely and whose functionality is limited to manually capturing, viewing, editing and downloading video and/or audio recordings, but not including body worn cameras;
- d. Devices that cannot record or transmit audio or video or be remotely accessed, such as image stabilizing binoculars or night vision goggles or thermal imaging cameras used for fire operations, search and rescue operations and missing person searches, and equipment used in active searches for wanted suspects;
- e. Manually-operated technological devices that are not designed and will not be used to surreptitiously collect surveillance data, such as two-way radios, email systems

and city-issued cell phones;

f. Municipal agency databases;

g. Medical equipment used to diagnose, treat, or prevent disease or injury, including electrocardiogram machines;

h. Cybersecurity capabilities, technologies and systems used by the City of Berkeley Department of Information Technology to predict, monitor for, prevent, and protect technology infrastructure and systems owned and operated by the City of Berkeley from potential cybersecurity events and cyber-forensic based investigations and prosecutions of illegal computer based activity;

i. Stationary security cameras affixed to City property or facilities.

j. Personal communication device, which means a cellular telephone, a personal digital assistant, a wireless capable tablet or similar wireless two-way communications and/or portable Internet accessing device, that has not been modified beyond stock manufacturer capabilities, whether procured or subsidized by a City entity or personally owned, that is used in the regular course of conducting City business.

2. "Surveillance Technology Report" means an annual written report by the City Manager covering all of the City of Berkeley's Surveillance Technologies that includes all of the following information with regard to each type of Surveillance Technology:

a. Description: A description of all non-privileged and non-confidential information about use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report shall include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing;

b. Geographic Deployment: Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically;

c. Complaints: A summary of each complaint, if any, received by the City about the Surveillance Technology;

d. Audits and Violations: The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response;

e. Data Breaches: Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response;

f. Effectiveness: Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes;

g. Costs: Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.

3. "Surveillance Acquisition Report" means a publicly-released written report produced prior to acquisition or to proposed permanent use after use in Exigent Circumstances pursuant to Section 2.99.040 (2), of a type of Surveillance Technology that includes the following:

a. Description: Information describing the Surveillance Technology and how it works, including product descriptions from manufacturers;

b. Purpose: Information on the proposed purpose(s) for the Surveillance Technology;

c. Location: The general location(s) it may be deployed and reasons for deployment;

d. Impact: An assessment identifying potential impacts on civil liberties and civil rights including but not limited to potential disparate or adverse impacts on any communities or groups;

e. Mitigation: Information regarding technical and procedural measures that can be implemented to appropriately safeguard the public from any impacts identified in subsection (d);

f. Data Types and Sources: A list of the sources of data proposed to be collected, analyzed, or processed by the Surveillance Technology, including "open source" data;

g. Data Security: Information about the steps that can be taken to ensure adequate security measures to safeguard the data collected or generated from unauthorized access or disclosure;

h. Fiscal Cost: The fiscal costs for the Surveillance Technology, including initial purchase, personnel and other ongoing costs, including to the extent practicable costs associated with compliance with this and other reporting and oversight requirements, as well as any current or potential sources of funding;

i. Third Party Dependence and Access: Whether use or maintenance of the technology will require data gathered by the technology to be handled or stored by a third-party vendor on an ongoing basis, and whether a third party may have access to such data or may have the right to sell or otherwise share the data in aggregated, disaggregated, raw or any other formats;

j. Alternatives: A summary and general assessment of potentially viable alternative methods (whether involving the use of a new technology or not), if any, considered before

deciding to propose acquiring the Surveillance Technology; and

k. Experience of Other Entities: To the extent such information is available, a summary of the experience of comparable government entities with the proposed technology, including any unanticipated financial or community costs and benefits, experienced by such other entities.

4. "Surveillance Use Policy" means a publicly-released and legally-enforceable policy for use of each type of the Surveillance Technology that shall reflect the Surveillance Acquisition Report produced for that Surveillance Technology and that at a minimum specifies the following:

a. Purpose: The specific purpose(s) that the Surveillance Technology is intended to advance;

b. Authorized Use: The uses that are authorized, the rules and processes required prior to such use, and the uses that are prohibited;

c. Data Collection: Information collection that is allowed and prohibited. Where applicable, list any data sources the technology will rely upon, including "open source" data;

d. Data Access: A general description of the title and position of the employees and entities authorized to access or use the collected information, and the rules and processes required prior to access or use of the information, and a description of any and all of the vendor's rights to access and use, sell or otherwise share information for any purpose;

e. Data Protection: A general description of the safeguards that protect information from unauthorized access, including encryption and access control mechanisms, and safeguards that exist to protect data at the vendor level;

f. Civil Liberties and Rights Protection: A general description of the safeguards that protect against the use of the Surveillance Technology and any data resulting from its use in a way that violates or infringes on civil rights and liberties, including but not limited to potential disparate or adverse impacts on any communities or groups;

g. Data Retention: The time period, if any, for which information collected by the surveillance technology will be routinely retained, the reason such retention period is appropriate to further the purpose(s), the process by which the information is regularly deleted after that period lapses, and the specific conditions that must be met to retain information beyond such period;

h. Public Access: How collected information may be accessed or used by members of the public;

i. Third Party Data Sharing: If and how other City or non-City Entities can access or use the information, including any required justification or legal standard necessary to do so and any obligations imposed on the recipient of the information;

j. Training: Training required for any employee authorized to use the Surveillance Technology or to access information collected;

k. Auditing and Oversight: Mechanisms to ensure that the Surveillance Use Policy is followed, technical measures to monitor for misuse, and the legally enforceable sanctions for intentional violations of the policy; and

l. Maintenance: The mechanisms and procedures to ensure maintenance of the security and integrity of the Surveillance Technology and collected information.

5. "Exigent Circumstances" means the City Manager's good faith belief that an emergency involving imminent danger of death or serious physical injury to any person, or imminent danger of significant property damage, requires use of the Surveillance Technology or the information it provides.

6. "Face Recognition Technology" means an automated or semi-automated process that assists in identifying or verifying an individual based on an individual's face.

Section 2. That the Berkeley Municipal Code Section 2.99.030 is amended to read as follows:

**2.99.030 City Council Approval Requirement**

1. The City Manager must obtain City Council approval, except in Exigent Circumstances, by placing an item on the Action Calendar at a duly noticed meeting of the City Council prior to any of the following:

a. Seeking, soliciting, or accepting grant funds for the purchase of, or in-kind or other donations of, Surveillance Technology;

b. Acquiring new Surveillance Technology, including but not limited to procuring such technology without the exchange of monies or consideration;

c. Using new Surveillance Technology, or using Surveillance Technology previously approved by the City Council for a purpose, or in a manner not previously approved by the City Council; or

d. Entering into an agreement with a non-City entity to acquire, share or otherwise use Surveillance Technology or the information it provides, or expanding a vendor's permission to share or otherwise use Surveillance Technology or the information it provides.

2. The City Manager must present a Surveillance Use Policy for each Surveillance Technology to the Police Review Commission, prior to adoption by the City Council. The Police Review Commission shall also be provided with the corresponding Surveillance Acquisition Report that had been presented to council for that Surveillance Technology. No later than 30 days after receiving a Surveillance Use Policy for review, the Police Review Commission must vote to recommend approval of the policy, object to the proposal, recommend modifications, or take no action. Neither opposition to approval of such a policy, nor failure by the Police Review Commission to act, shall prohibit the City Manager from proceeding with its own review and potential adoption.

3. The City Manager must submit for review a Surveillance Acquisition Report and obtain City Council approval of a Surveillance Use Policy prior to engaging in any of the activities described in subsections (1) (a)-(d).

4. Evidence received relating to the investigation of a specific crime that may have been generated from Face Recognition Technology but was not intentionally solicited shall not be a violation of this ordinance.

5. Notwithstanding any other provision of this Chapter, it shall be a violation of this ordinance for the City Manager or any person acting on the City Manager's behalf to obtain, retain, request, access, or use: i) any Face Recognition Technology; or ii) any information obtained from Face Recognition Technology, except for personal communication devices as defined by Section 2.99.020 or section 2.99.030(4). The inadvertent or unintentional receipt, access to, or use of any information obtained from Face Recognition Technology shall not be a violation of this subsection provided that the City Manager or any person acting on the City Manager's behalf does not request or solicit the receipt, access to, or use of such information, and all copies of the information are promptly destroyed upon discovery of the information, and the information is not used for any purpose.

The City Manager shall log the receipt, access to, or use of any such information in its Annual Surveillance Technology Report. The Surveillance Technology Report shall identify measures taken by the City to prevent the further transmission or use of any information inadvertently or unintentionally obtained through the use of Face Recognition Technology; provided, however, that nothing in this Chapter shall limit the ability to use such information in connection with a criminal investigation.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



At a regular meeting of the Council of the City of Berkeley held on October 15, 2019, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

Absent: None.



ORDINANCE NO. 7,677-N.S.

ADOPT BERKELEY MUNICIPAL CODE CHAPTER 13.23 TO PROHIBIT DISCRIMINATION ON THE BASIS OF HAIRSTYLE OR HEADWEAR IN EMPLOYMENT, HOUSING, AND PUBLIC ACCOMMODATIONS

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Chapter 13.23 is added to read as follows:

**Chapter 13.23  
DISCRIMINATION ON THE BASIS OF HAIRSTYLE OR HEADWEAR IN  
EMPLOYMENT, HOUSING, AND PUBLIC ACCOMMODATIONS**

**13.23.010 Purpose**

It is the policy of the City to eliminate all forms of racial, ethnic, cultural, and religious discrimination within the City. It is the intent of the City Council to ban grooming and appearance policies which have the effective result of discrimination on the basis of racial, ethnic, cultural, or religious identity, both for policies impacting City employees and for private employers.

**13.23.020 Findings**

The City Council of the City of Berkeley finds and determines as follows:

A) Discrimination against racial, ethnic, cultural, and religious minorities in employment, housing, and public accommodations exists within the City. The council further finds that the existence of such discrimination poses a substantial threat to the economic and social welfare of the community.

B) Racial, ethnic, cultural, and religious based discriminatory grooming or appearance policies exist in places of employment, housing, and public accommodations within the City. These policies exacerbate inequality in the workplace and housing market.

C) The overall effect of grooming or appearance policies which target the natural or traditional hair styles and headwear of racial, ethnic, cultural, and religious minority groups is to require a disproportionate outlay of monetary and time resources from members of these groups in order to participate in daily living, and to restrict these groups from fully and freely participating in public life.

D) Discrimination through grooming and appearance policies falls most heavily on low income communities, but cuts across all racial, ethnic, cultural, religious, and economic groups.

**13.23.030 Definitions**

As used in this chapter, the following words and phrases shall have the meanings ascribed to them in this subsection:

A) "Grooming or appearance policies" or "appearance policies" means any code of dress, grooming, or appearance, written or unwritten, under which an individual is in any way penalized for noncompliance.

B) "Natural hair" means all natural patterns of hair growth across all racial and ethnic groups, including but not limited to treated or untreated hairstyles such as locs, cornrows, twists, braids, Bantu knots, fades, Afros, and/or the right to keep hair in an uncut or untrimmed state. This shall include all hair grown on the head and face.

C) "Place of public accommodation" or "public accommodations" means providers, whether licensed or unlicensed, of goods, services, facilities, accommodations, advantages or privileges of any kind, and places, whether licensed or unlicensed, where goods, services, facilities, accommodations, advantages or privileges of any kind are extended, offered, sold, or otherwise made available. This unambiguously includes schools, due to the historical proliferation of racially discriminatory grooming and appearance policies in educational settings.

D) "Traditional hair" means styles of maintaining hair of cultural or religious significance to any racial, ethnic, cultural, or religious group, including keeping hair uncut or completely shaven. This shall include all hair grown on the head and face.

E) "Traditional headwear" means clothing that is worn on the head that is culturally or religiously significant to any racial, ethnic, cultural, or religious group.

### **13.23.040 Unlawful activities**

It is unlawful for any employer, business owner, property owner, provider of public accommodation, or any agent or employee thereof to discriminate in the conditions or enforcement of a grooming or appearance policy. Such prohibited discrimination includes but is not limited to the following:

A) Publish, verbally state, or otherwise communicate an explicitly or implicitly mandatory appearance policy which includes any condition prohibiting natural or traditional hair or headwear, either textually or in practice;

B) Require, in order to access employment opportunities, housing accommodations, public accommodations, or the negotiation or carrying out thereof, individual adherence to a grooming or appearance policy which explicitly or implicitly bans any natural or traditional hair style or headwear.

C) Refuse to enter into negotiations regarding hiring, employment, compensation, lease or rental of property, or otherwise withhold from any person any provision of public accommodations because of their natural or traditional hair style or headwear;

D) Represent to any person because of their natural or traditional hair style or headwear that employment opportunities, housing accommodations, or public accommodations are not available when such opportunities or accommodations are in fact available;

E) Include a clause or provision in any legal document or agreement that the employee, tenant, or recipient of public accommodations shall adhere to a grooming or appearance policy which compromises their ability to maintain a natural or traditional hair style or headwear;

F) Penalize an employee, tenant, or recipient of public accommodations for violating an appearance policy which unlawfully bans natural or traditional hair or headwear, in any manner including financial penalties, termination, withholding of wage increases, or denial of services, housing or access.

G) Enforce grooming or appearance policies inconsistently between similarly situated employees, tenants, or recipients of public accommodations or groups of employees, tenants, or recipients of public accommodations, to the effect of enacting unequal and discriminatory grooming standards.

**13.23.050 Exemptions – Health and Safety**

A. The City Manager shall draft and maintain a list of exemptions from the requirements of this ordinance based upon operational requirements related to health and safety. The exemptions shall be of job categories and work environments, not for organizations as a whole.

B. Exemptions shall only be made with respect to section 13.23.040 A, B, C, and E.

C. No exemption shall be made with respect to the provision of housing, including short term housing.

D. The criteria for exemption shall be limited to only the advancement of health and safety, and exemptions shall be eliminated when the health and safety basis for the exemption no longer exists.

**13.23.060 Enforcement**

A) Any aggrieved person may enforce the provisions of this chapter by means of a civil action.

B) Any person who commits, or proposes to commit, an action in violation of this chapter may be enjoined therefrom by any court of competent jurisdiction.

C) Action for injunction under this subsection may be brought by any aggrieved person, by the City Attorney, by the district attorney, or by any person or entity which will fairly and adequately represent the interests of the protected class.

**13.23.070 Liability for costs and damages**

Any person who violates the provisions of this chapter shall be liable to each person injured by such violation for reasonable attorney's fees and costs as determined by the court, plus damages equaling three times the amount of actual damages or a minimum

of five hundred dollars.

**13.23.080 Criminal penalties**

Any person who is found by a court of competent jurisdiction to be guilty of a willful violation of the provisions of this chapter shall be guilty of a misdemeanor as set forth in Chapter 1.20 of this code.

**13.23.090 Limitation on action**

Actions under this chapter must be filed within 3 years of the alleged discriminatory acts.

**13.23.100 Effective date**

The effective date of this ordinance shall be January 1st, 2020 or when the City Manager has released the list of exemptions pursuant to Section 13.23.050, whichever is later.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on October 15, 2019, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

Absent: None.



Office of the City Manager

CONSENT CALENDAR  
October 29, 2019

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Mark Numainville, City Clerk  
Subject: Minutes for Approval

RECOMMENDATION

Approve the minutes for the Council meetings of September 3, 2019 (special closed), September 10, 2019 (special closed and regular), September 17, 2019 (special closed and special) and September 24, 2019 (special closed and regular).

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1. September 3, 2019-Special Closed City Council Meeting
2. September 10, 2019-Special Closed City Council Meeting
3. September 10, 2019-Regular City Council Meeting
4. September 17, 2019-Special Closed City Council Meeting
5. September 17, 2019-Special City Council Meeting
6. September 24, 2019-Special Closed City Council Meeting
7. September 24, 2019-Regular City Council Meeting

**MINUTES  
BERKELEY CITY COUNCIL  
SPECIAL MEETING MINUTES**

**TUESDAY, SEPTEMBER 3, 2019**

**4:00 P.M.**

**2180 Milvia Street, Berkeley, CA – Redwood Room**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – CHERYL DAVILA  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – LORI DROSTE

**Preliminary Matters**

**Roll Call:** 4:07 p.m.

**Present:** Kesarwani, Davila, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin

**Absent:** Bartlett

**Public Comment - Limited to items on this agenda only – 0 speakers**

**CLOSED SESSION:**

The City Council will convene in closed session to meet concerning the following:

**1. PUBLIC EMPLOYEE APPOINTMENTS PURSUANT TO GOVERNMENT CODE SECTION 54957(b):**

**a. Title of position to be filled:** Director of Health, Housing & Community Services

**Action:** No action taken.

**2. CONFERENCE WITH LABOR NEGOTIATORS; GOVERNMENT CODE SECTION 54957.6:**

**Negotiators:** Dee Williams-Ridley, City Manager, David White, Deputy City Manager, LaTanya Bellow, Director of Human Resources, Andrew Greenwood, Chief of Police

**Employee Organizations:** Berkeley Police Association

**Action:** No action taken.

**OPEN SESSION:**

No reportable action.



## Adjournment

**Action:** M/S/C (Hahn/Wengraf) to adjourn the meeting.

**Vote:** Ayes – Kesarwani, Davila, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Bartlett.

Adjourned at 5:37 p.m.

I hereby certify that the foregoing is a true and correct record of the special closed meeting of September 3, 2019 as approved by the Berkeley City Council.

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Mark Numainville, City Clerk

**MINUTES  
BERKELEY CITY COUNCIL  
SPECIAL MEETING MINUTES**

**TUESDAY, SEPTEMBER 10, 2019**

**5:00 P.M.**

**School District Board Room – 1231 Addison Street, Berkeley, CA**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – CHERYL DAVILA  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – LORI DROSTE

### **Preliminary Matters**

**Roll Call:** 5:07 p.m.

**Present:** Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin

**Absent:** Kesarwani

Councilmember Kesarwani present at 5:10 p.m.

**Public Comment - Limited to items on this agenda only – 0 speakers**

### **CLOSED SESSION:**

The City Council will convene in closed session to meet concerning the following:

**1. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTIONS 54956.9(a) AND 54956.9(d)(1)**

Patrick D. Regan v. City of Berkeley, U.S.D.C. N.D. Cal. Case No. 19-cv-00611-JD

**Action:** M/S/C (Hahn/Robinson) to authorize the City Attorney to settle Regan v. City of Berkeley (US District Court No. 3:19-C-00611 JD) for \$35,000.

**Vote:** All Ayes.

**2. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTIONS 54956.9(a) AND 54956.9(d)(1)**

Jose Ribeiro v. City of Berkeley, Alameda County Superior Court case No. RG189282246

**Action:** M/S/C (Bartlett/Robinson) to authorize the City Attorney to settle Ribeiro v. City of Berkeley (Alameda County Superior Court Case No. RG RG18 928246) for \$70,000.

**Vote:** All Ayes.

## OPEN SESSION:

The City Council met in closed session and authorized the City Attorney to settle Regan v. City of Berkeley (US District Court No. 3:19-C-00611 JD) for \$35,000, and Ribeiro v. City of Berkeley (Alameda County Superior Court Case No. RG RG18 928246) for \$70,000.

## Adjournment

**Action:** M/S/C (Bartlett/Robinson) to adjourn the meeting.

**Vote:** All Ayes.

Adjourned at 5:34 p.m.

I hereby certify that the foregoing is a true and correct record of the special closed meeting of September 10, 2019 as approved by the Berkeley City Council.

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Mark Numainville, City Clerk

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, September 10, 2019**  
**6:00 PM**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
 DISTRICT 2 – CHERYL DAVILA  
 DISTRICT 3 – BEN BARTLETT  
 DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
 DISTRICT 6 – SUSAN WENGRAF  
 DISTRICT 7 – RIGEL ROBINSON  
 DISTRICT 8 – LORI DROSTE

### **Preliminary Matters**

**Roll Call:** 6:11 p.m.

**Present:** Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin

**Absent:** None

### **Report from Closed Session:**

The City Council met in closed session and authorized the City Attorney to settle Regan v. City of Berkeley (US District Court No. 3:19-C-00611 JD) for \$35,000, and Ribeiro v. City of Berkeley (Alameda County Superior Court Case No. RG RG18 928246) for \$70,000.

### **Ceremonial Matters:**

1. Pledge of Allegiance to the Flag
2. Recognition of Dr. Rev. Robert L. McKnight Sr.
3. Recognition of the Berkeley Film Foundation
4. Adjourn in Memory of Bill Wilkins, Executive Director of Berkeley Housing Authority
5. Adjourn in Memory of Nicki Spillane, Former City Employee
6. Dru Howard, Community Activist
7. Donald Lee Warren, Berkeley Resident and Business Owner
8. Yulia Krashennaya and Daniel Garcia, Victims of the Santa Cruz Island Boat Fire

### **City Auditor Comments:**

The City Auditor noted some of the issues raised in the Easy Does It audit and the contract on the agenda for technical assistance consulting to improve internal controls. The City Auditor noted the street paving report and questions about the contents of the report.

**City Manager Comments:**

1. The City received a grant from the state Office of Traffic Safety for bicycle and pedestrian safety programs.
2. The City recently concluded a very successful recruitment process for police officers.
3. Caltrans and the CHP will be conducting weekly clean-up operations on I-80.
4. The City is in the process of redesigning the website.
5. The Berkeley Visionary Awards are 9/16/19 at 5pm at the Freight and Salvage
6. Ride Electric Event on 9/15/19 at 11am at Civic Center Park

**Public Comment on Non-Agenda Matters:** 10 speakers.

**Consent Calendar**

**Public Comment on Consent Calendar and Information Items Only:** 44 speakers.

**Action:** M/S/C (Hahn/Robinson) to adopt the Consent Calendar in one motion except as indicated.

**Vote:** All Ayes.

**Recess Items**

1. **Recess Item: Reject All Bids and Negotiate in the Open Market for the John Hinkel Park Improvement Project, Specification No. 19-11321-C**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution ratifying the action taken by the City Manager during recess to reject all bids and direct staff to negotiate in the open market for the work associated with the John Hinkel Park Improvement Project, Specification No. 19-11321-C.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,061–N.S.

**Consent Calendar**

2. **Referral Response: Short-term referral to City Manager to amend Berkeley Municipal Code 7,441-N.S. to expand the control of flavored tobacco across the City of Berkeley toward preventing youth and young adult tobacco use**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,673-N.S. amending Berkeley Municipal Code sections 9.80.020 and 9.80.035, and adding sections 9.80.031 and 9.80.032 to prohibit the sale of flavored tobacco products, to require a minimum package size for cigars and little cigars, and to require a minimum price for certain tobacco products sold in the City.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Farimah Brown, City Attorney, (510) 981-6950; Kelly Wallace, Housing and Community Services, (510) 981-5400  
**Action:** Adopted second reading of Ordinance No. 7,673-N.S.

## Consent Calendar

- 3. Amendments to the Berkeley Election Reform Act; Amending BMC Chapter 2.12**  
**From: Fair Campaign Practices Commission**  
**Recommendation:** Adopt second reading of Ordinance No. 7,674-N.S. amending the Berkeley Elections Reform Act, Berkeley Municipal Code Chapter 2.12, regarding the public financing program.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** None  
Contact: Emma Soichet, Commission Secretary, (510) 981-6950  
**Action:** Adopted second reading of Ordinance No. 7,674-N.S.
- 4. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the Council meetings of July 9, 2019 (special closed and regular), July 16, 2019 (special closed and regular) and July 23, 2019 (special closed and regular).  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Approved minutes as submitted.
- 5. Contract No. 9754 Amendment: Konica Minolta Business Solutions, Inc. for Electronic Content Management System and Agenda Management and Workflow System**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9754 with Konica Minolta Business Solutions, Inc. for software maintenance, and related services for OnBase, an Electronic Content Management System (ECMS) and agenda management and workflow system, to increase the not-to-exceed amount by \$175,000 for a total not to exceed amount of \$541,004 to pay for regular annual maintenance costs and version updates, and authorize annual renewals for maintenance services through September 18, 2024.  
**Financial Implications:** General Fund - \$175,000  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Adopted Resolution No. 69,062–N.S.
- 6. 2019 Updated Commissioners' Manual**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the updated 2019 edition of the Commissioners' Manual to include the Council direction to enhance the requirements for the public availability of written materials distributed to the commission after the agenda packet is published, making additional clarifying, non-substantive corrections, and rescinding Resolution No. 68,487-N.S.  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Adopted Resolution No. 69,063–N.S.

## Consent Calendar

### 7. On-Call Graphic Design Services Contracts

**From: City Manager**

**Recommendation:** Adopt eight Resolutions authorizing the City Manager to approve contracts and any amendments with the following firms for on-call graphic design and/or illustration services for a total contract period of three years:

1. Bess Design in an amount not to exceed \$75,000; and
2. Celery Design Collaborative in an amount not to exceed \$75,000; and
3. Finley Digital in an amount not to exceed \$75,000; and
4. Identafire in an amount not to exceed \$75,000; and
5. Kate Saker in an amount not to exceed \$75,000; and
6. lowercase productions in an amount not to exceed \$75,000; and
7. Pushcart Design in an amount not to exceed \$75,000; and
8. Uptown Studios in an amount not to exceed \$75,000.

**Financial Implications:** See report

Contact: Dee Williams-Ridley, City Manager, (510) 981-7000

**Action:** Adopted Resolution No. 69,064–N.S. (Bess Design); Resolution No. 69,065–N.S. (Celery Design); Resolution No. 69,066–N.S. (Finley Digital); Resolution No. 69,067–N.S. (Identafire); Resolution No. 69,068–N.S. (Kate Saker); Resolution No. 69,069–N.S. (lowercase productions); Resolution No. 69,070–N.S. (Pushcart Design); and Resolution No. 69,071–N.S. (Uptown Studios).

### 8. Resolution Recognizing the Importance of the 2020 Census

**From: City Manager**

**Recommendation:** Adopt a Resolution supporting Census 2020 and encouraging residents of the City of Berkeley to promote and complete the Census to ensure a fair and complete count.

**Financial Implications:** See report

Contact: Dave White, City Manager's Office, (510) 981-7000

**Action:** Adopted Resolution No. 69,072–N.S.

### 9. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on September 10, 2019

**From: City Manager**

**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.

**Financial Implications:** Various Funds - \$12,590,000

Contact: Henry Oyekanmi, Finance, (510) 981-7300

**Action:** Approved recommendation.

## Consent Calendar

- 10. Purchase Order Agreements: Aramark Uniform Rental and Laundry Service**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to piggyback on the City of Fresno's competitively bid contract with Aramark Uniform Services for the provision to provide rental and laundering of uniforms, walk-off mats, towels, and miscellaneous items for various departments. Expenditures are projected to amount to \$64,178 in Year 1 (September 1, 2019 through December 31, 2019) and \$198,735 in Year 2 and \$205,134 in Year 3 through January 4, 2022 for a total not to exceed amount of \$468,047 during this 28 month period, subject to the City's annual budget appropriation process.  
**Financial Implications:** Various Funds - \$186,530  
 Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted Resolution No. 69,073–N.S.
- 11. Toshiba Managed Printed Services – Participation in Cooperative Contract: Region 4 Education Service Center/Omnia Partners**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to piggyback off Region 4 Education Service Center Contract No. R171405 (hereinafter Region 4 Contract) and enter into annual Purchase Order agreements and any amendments with Toshiba Business Solutions Inc. (TBS) for the provision of citywide managed print and copy services. Expenditures are projected to amount to \$267,938 in FY2020, \$275,976 in FY2021, and \$284,255 in FY2022, for a total not to exceed amount of \$828,170 for three (3) years coverage, subject to the City's annual budget appropriation process.  
**Financial Implications:** See report  
 Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted Resolution No. 69,074–N.S.
- 12. Contract No. 010561 Amendment: Alameda County Network of Mental Health Clients / Berkeley Drop-In Center (BDIC) to Operate a Secure Storage Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 010561 with the Alameda County Network of Mental Health Clients / Berkeley Drop-In Center, adding \$50,000 in state Homeless Emergency Aid Program (HEAP) funding for a homeless storage locker program. This addition of \$50,000 will support eligible program-related activities for the period of one year and will increase the total not-to-exceed (NTE) amount of the existing contract to a revised amount of \$85,721.  
**Financial Implications:** HEAP Funds - \$50,000  
 Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 69,075–N.S.



## Consent Calendar

- 13. Contract: Alameda County Public Health Department, Office of Dental Health to Provide Dental Services to the Berkeley Unified School District**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments or extensions with Alameda County in an amount not to exceed \$159,000 to provide dental services in Berkeley Unified School District for the period of July 1, 2019 through June 30, 2022.  
**Financial Implications:** General Fund - \$53,000  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 69,076–N.S.
- 14. Authorization to Execute a Revised Programmatic Agreement with the California State Historic Preservation Officer (SHPO)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a revised Programmatic Agreement (PA) with the California State Historic Preservation Officer (SHPO) to clarify which rehabilitation activities would not require SHPO’s review.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400  
**Action:** Item held over to October 15, 2019.
- 15. Authorization to use Measure E Reserves to Procure Consulting Services for Easy Does It**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to use Measure E reserve funds to procure a consultant and enter into any agreements to provide Easy Does It (EDI) with operational, management, and organizational culture consulting services for an amount not to exceed \$100,000 to ensure initial and sustained implementation of audit findings.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 69,077–N.S.
- 16. State Minimum Wage Increases: Camps’ Classification Salaries State Minimum Wage Increase – July 1, 2019 through June 30, 2022**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving salary increases for certain Unrepresented Camp Classification salaries in Unit X1, for the period July 1, 2019 through December 31, 2020 pursuant to State of California Minimum Wage Order (MW-2019), and amending Resolution No. 68,534-N.S. (Salary).  
**Financial Implications:** See report  
Contact: LaTanya Bellow, Human Resources, (510) 981-6800  
**Action:** Adopted Resolution No. 69,078–N.S.

## Consent Calendar

- 17. Berkeley Minimum Wage Increases: Salary Adjustments in accordance with Berkeley Minimum Wage Ordinance – July 1, 2019 through June 30, 2021**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving salary increases for certain Unrepresented Classification salaries in Unit X1, for the period July 1, 2019 through June 30, 2020 pursuant to Berkeley Minimum Wage Ordinance, adopt future CPI-W increases through June 30, 2021 pursuant to Berkeley Minimum Wage Ordinance B.M.C. 13.99, and amending Resolution No. 68,534-N.S. (Salary).  
**Financial Implications:** See report  
Contact: LaTanya Bellow, Human Resources, (510) 981-6800  
**Action:** Adopted Resolution No. 69,079–N.S.
- 18. Presidio Networked Solutions Group, LLC: Using National Association of State Procurement Officials (NASPO) ValuePoint Cooperative Purchasing Agreement for Computer Hardware and Software Purchase Orders**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to increase spending authority with Presidio Networked Solutions Group, LLC (“Presidio”) for the purchase of networking equipment hardware and software, utilizing pricing and contracts, amendments, and extensions from the National Association of State Procurement Officials (NASPO) ValuePoint for the period beginning September 10, 2019 to June 30, 2020 for an amount not-to-exceed (NTE) \$200,000.  
**Financial Implications:** See report  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 69,080–N.S.
- 19. Contract No. 10414A Amendment: Geographic Technologies Group (GTG) for Geographic Information System (GIS) Master Plan**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 10414A with Geographic Technologies Group (GTG) for Geographic Information System (GIS) Master Plan, for a total not to exceed \$99,700 and for a total contract value of \$303,960 from September 14, 2016 to June 30, 2021.  
**Financial Implications:** General Fund - \$99,700  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 69,081–N.S.
- 20. Donation: Memorial Bench at Cesar Chavez Park in memory of Robert J. and Charlotte C. Coomber**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution accepting a cash donation in the amount of \$3,400 for a memorial bench to be placed at Cesar Chavez Park at the Berkeley Marina in memory of Robert J. and Charlotte C. Coomber.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,082–N.S.

## Consent Calendar

- 21. Contract: United Site Services of California, Inc. for Portable Toilet Rental and Service**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with United Site Services of California, Inc. in an amount not to exceed \$360,000 for a period of two years, with an option to extend for three 12-month periods for a total amount not to exceed \$900,000 to provide portable toilet services for rental and service of portable toilet units for the period October 1, 2019 through September 30, 2024.  
**Financial Implications:** Various Funds - \$900,000  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,083–N.S.
- 22. Contract: Rincon Consultants, Inc. for Southside Initial Study and Environmental Impact Report**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Rincon Consultants, Inc. to prepare an Initial Study/Environmental Impact Report (IS/EIR) for Zoning Ordinance changes in the Southside area for an amount not to exceed \$192,000 for a period of 18 months.  
**Financial Implications:** See report  
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400  
**Action:** Adopted Resolution No. 69,084–N.S. amended as follows:
- Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Rincon Consultants, Inc. to prepare an Initial Study/Environmental Impact Report (IS/EIR) for Zoning Ordinance changes in the Southside area for an amount not to exceed \$192,000 for a period of 18 months. Consultant should take a comprehensive look at producing housing and affordable housing in the Southside area and that the Office of Economic Development and Telegraph BID be consulted during the process.*
- 23. Approval of match commitment letter for FEMA Hazard Mitigation Grant**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to submit a letter of commitment of matching funds for a Hazard Mitigation Grant application for the Retrofit Grants program to the Federal Emergency Management Agency (FEMA), and subject to its award, to accept the grant and execute any resultant revenue agreements and amendments including any additional funding allocations from the Hazard Mitigation Grant Program.  
**Financial Implications:** See report.  
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400  
**Action:** Adopted Resolution No. 69,085–N.S.

## Consent Calendar

- 24. Contract: DC Electric Group, Inc., for On-Call Electronic Traffic Calming Devices Maintenance Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with DC Electric Group, Inc., for the on-call general maintenance of electronic traffic calming devices for the period October 16, 2019 to June 30, 2024, with an option of up to three one-year extensions, for an amount not-to-exceed \$250,000.  
**Financial Implications:** State Transportation Tax Fund - \$250,000  
Contact: Phillip Harrington, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,086–N.S.
- 25. Contract No. 10298 Amendment: C. Overaa & Co. for the Center Street Parking Garage**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 10298 with C. Overaa & Co. for the Center Street Parking Garage Project, increasing the contract amount by \$473,835 for a total amount not to exceed \$38,944,818.  
**Financial Implications:** Off Street Parking Fund - \$473,835  
Contact: Phillip Harrington, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,087–N.S.
- 26. Contract No. 9082C Amendment: Northgate Environmental Management, Inc. for On-Call Environmental Consulting Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 9082C with Northgate Environmental Management, Inc. for on-call environmental consulting services, increasing the current contract by \$50,000 for a total contract amount not to exceed \$234,500.  
**Financial Implications:** Various Funds - \$50,000  
Contact: Phillip Harrington, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,088–N.S.
- 27. Correction to Resolution No. 68,901-N.S. to Authorize Enhanced Fine Tow Zones on UC Berkeley Football Game Days**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution re-establishing new parking restrictions on UC Berkeley football game days, correcting the inadvertent omission of Enhanced Fine tow zones in Resolution No. 68,901-N.S., and rescinding Resolution No. 68,901-N.S.  
**Financial Implications:** None  
Contact: Phillip Harrington, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,089–N.S.

## Consent Calendar

- 28. Agreement with East Bay Regional Park District for Drainage, Slope, and Maintenance Access Easements in Tilden Regional Park**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance authorizing the City Manager to execute an agreement with the East Bay Regional Park District (EBRPD) for Drainage, Slope and Maintenance Access Easements at Tilden Regional Park.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300  
**Action:** Adopted first reading of Ordinance No. 7,675–N.S. Second reading scheduled for September 24, 2019.
- 29. Green Infrastructure Plan Adoption**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution adopting the City of Berkeley Green Infrastructure Plan, July 2019, submit the Plan to the SF Bay Regional Water Quality Control Board, and authorize the City Manager to amend the Green Infrastructure Plan as needed to adjust for changes in technologies, or changes in City priorities.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,090–N.S.
- 30. Referral Response: Proposed New BMC Ordinance Adding Chapter 9.26 Live Animal Sales – Disclosure Requirements**  
**From: Animal Care Commission**  
**Recommendation:** In lieu of approving the ordinance, encourage Berkeley live animal retailers to provide purchasers with information regarding the sourcing of their animals by utilizing one or two of the following designations describing the sourcing of the particular animal: ‘captive bred;’ ‘hobby breeder’ or ‘licensed breeder;’ ‘rescue;’ ‘wild caught;’ or ‘imported.’  
**Financial Implications:** None  
Contact: Amelia Funghi, Commission Secretary, (510) 981-6600  
**Action:** Approved recommendation amended to refer to the City Manager to develop definitions for the new designations.

## Consent Calendar

**31. Providing Wheelchair Charging Opportunities for Homeless Individuals  
From: Commission on Disability**

**Recommendation:** Adopt a resolution directing appropriate city staff to develop policies which will provide accessible, reliable opportunities for homeless individuals with disabilities to charge power wheelchairs. Staff is directed to research existing conditions of homeless individuals with disabilities; barriers to charging power wheelchairs; related consequences; and potential City actions to provide accessible, reliable wheelchair charging. Request that staff assemble a policy to be reviewed and implemented.

**Financial Implications:** See report

Contact: Dominika Bednarska, Commission Secretary, (510) 981-6300

**Action:** Approved revised recommendation as written below:

*Refer to the City Manager to develop policies which will provide accessible, reliable opportunities for homeless individuals with disabilities to charge power wheelchairs. Refer to the City Manager to research existing conditions of homeless individuals with disabilities; barriers to charging power wheelchairs; related consequences; and potential City actions to provide accessible, reliable wheelchair charging. Refer to the City Manager to assemble a policy to be reviewed and implemented.*

**32. Calling for State Action on Parking Enforcement Vehicle Emissions  
From: Community Environmental Advisory Commission**

**Recommendation:** Refer to the City Manager to send the letter attached to the report, calling for the State of California to require 100% all-electric parking enforcement vehicles by 2030 or earlier, to Berkeley's elected State-level representatives and the Chair of the California Air Resources Board.

**Financial Implications:** See report

Contact: Viviana Garcia, Commission Secretary, (510) 981-7460

**Action:** Approved recommendation.

## Consent Calendar

**33. Commission Referral: Recommendation to Install an Outdoor Public Warning System (Sirens) and Incorporate It Into a Holistic Emergency Alerting Plan**  
(Reviewed by the Public Safety Committee)

**From: Disaster and Fire Safety Commission**

**Recommendation:** We recommend that City of Berkeley immediately begin the process to purchase, install, and maintain an outdoor public warning system (sirens) as a supplement to other alert and warning technologies within our boundaries and coordinated with abutting jurisdictions and Alameda County. This installation should be accompanied by the following: -ongoing outreach and education so that the public will understand the meaning of the sirens and what to do when they hear a siren; - development of a holistic alert protocol, incorporating sirens as an additional option among the available suite of alerting methods; -staff training and drills on alerting procedures; -development of a testing and maintenance plan that will ensure the system is fully operational while avoiding unnecessary or excessive noise pollution in the City; -outreach to deaf and hard of hearing residents to encourage them to opt-in for alerting that meets their communication needs. This may include distributing weather radios or other in-home devices with accessibility options for people with disabilities.

This recommendation does not specify the number, type, or location of sirens; City staff should determine the most cost-effective system that achieves the goals described in this recommendation. This may include either mobile or fixed-location sirens.

**Financial Implications:** See report

Contact: Keith May, Commission Secretary, (510) 981-3473

**Action:** Approved recommendation with a revised first sentence as follows:

*Recommend that City of Berkeley explore evaluating locations to install and maintain an outdoor public warning system (sirens) as a supplement to other alert and warning technologies within our boundaries and coordinated with abutting jurisdictions and Alameda County, and refer the item to the November budget discussion.*

**34. Reinstating October, 2019 Homeless Commission Meeting**

**From: Homeless Commission**

**Recommendation:** The Homeless Commission recommends that Council reinstate the October, 2019 Homeless Commission meeting earlier relinquished in order to hold an additional meeting in February, 2019 to address community funding allocations.

**Financial Implications:** Staff time

Contact: Peter Radu, Commission Secretary, (510) 981-5400

**Action:** Approved recommendation.

## Consent Calendar

### 35. 1281 University Avenue Request for Proposals

**From: Housing Advisory Commission**

**Recommendation:** Direct the City Manager to issue a Request for Proposals (RFP) for residential development at the City-owned site at 1281 University Avenue with a requirement that at least 50% of the on-site units to be restricted to 50% AMI or below households, with consideration given to accommodations that serve unhoused or homeless households, including nontraditional living arrangements such as tiny homes and that Council consider interim use for the site for housing purposes.

**Financial Implications:** See report

Contact: Mike Uberti, Commission Secretary, (510) 981-7400

**Action:** Moved to Action Calendar. 3 speakers. M/S/C (Arreguin/Kesarwani) to approve the recommendation as revised below.

**Vote:** All Ayes.

*Refer to the City Manager to issue a Request for Proposals (RFP) for residential development at the City-owned site at 1281 University Avenue with a requirement that 100% of the on-site units to be restricted to 80% AMI or below households with at least 10% at 50% AMI, with consideration given to accommodations that serve unhoused or homeless households, including nontraditional living arrangements such as tiny homes and that Council consider interim use for the site for housing purposes.*

### 36. Spring 2019 Bi-Annual Report on Funding for Housing Programs

**From: Housing Advisory Commission**

**Recommendation:** Accept the Housing Advisory Commission's (HAC) recommendations for the allocation of U1 General Fund revenues to increase the supply of affordable housing and protect residents of Berkeley from homelessness.

**Financial Implications:** See report

Contact: Mike Uberti, Commission Secretary, (510) 981-7400

**Action:** Referred to the Land Use, Housing, and Economic Development Committee.

### 37. Appointment of Andrea Prichett to the Mental Health Commission

**From: Mental Health Commission**

**Recommendation:** Adopt a Resolution approving the appointment of Andrea Prichett to the Mental Health Commission, as a representative of the general public interest category, for a three year term beginning September 11, 2019 and ending September 10, 2022.

**Financial Implications:** None

Contact: Jamie Works-Wright, Commission Secretary, (510) 981-5400

**Action:** Adopted Resolution No. 69,091–N.S.

**Vote:** Ayes – Davila, Bartlett, Harrison, Robinson, Arreguin; Noes – Kesarwani, Droste; Abstain – Hahn, Wengraf.



## Consent Calendar

**38. Resolution: Oppose U.S. Withdrawal from INF Treaty**

**From: Peace and Justice Commission**

**Recommendation:** Adopt a resolution that calls on President Trump to rescind the U.S. notice of withdrawal from the Intermediate-Range Nuclear Forces Treaty (INF Treaty) and to continue to comply with and re-enter into the Treaty, calls on Congress to oppose U.S. withdrawal from the Treaty and to support resolution of U.S.-Russian disputes through mechanisms established by the Treaty, and calls on Representative Barbara Lee to support H.R. 1249, the INF Treaty Compliance Act of 2019.

**Financial Implications:** None

Contact: Bre Slimick, Commission Secretary, (510) 981-7000

**Action:** Adopted Resolution No. 69,092–N.S. as revised in Supplemental Communications Packet #1.

## Council Consent Items

**39. Support of AB 18 – Firearms Excise Tax**

**From: Mayor Arreguin and Councilmembers Wengraf, Harrison, and Robinson**

**Recommendation:** Adopt a Resolution in support of Assembly Bill (AB) 18, which would place a \$25 excise tax on the sale of firearms. Send a copy of the Resolution to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymembers Buffy Wicks and Marc Levine.

**Financial Implications:** None

Contact: Jesse Arreguin, Mayor, (510) 981-7100

**Action:** Adopted Resolution No. 69,093–N.S.

**40. Sierra Club San Francisco Bay Chapter: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**

**From: Mayor Arreguin and Councilmember Hahn**

**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$1,000 per Councilmember including \$1,000 from Mayor Arreguin to the Sierra Club San Francisco Bay Chapter for sponsorship of the 2019 David Brower Dinner, a 501(c)(3) tax-deductible non-profit corporation. Funds would be relinquished to the City's General Fund for this purpose from the discretionary Council Office Budgets of Mayor Arreguin and any other Councilmembers who would like to contribute.

**Financial Implications:** Mayor's Discretionary Funds - \$1,000

Contact: Jesse Arreguin, Mayor, (510) 981-7100

**Action:** Removed from the agenda by Mayor Arreguin.

## Council Consent Items

**41. Approval of One-Time Reimbursement for Sister City Visit to Gongju, Republic of Korea**

**From: Mayor Arreguin and Councilmember Robinson**

**Recommendation:** Adopt a Resolution approving the reimbursement of travel expenses at up to \$6,000 from the discretionary Council Office Budgets of Mayor Arreguin and Councilmember Robinson for the purpose of visiting Berkeley's sister city, Gongju, Republic of Korea to officially commemorate the establishment of sister city relations.

Council approval of this one-time reimbursement is required under the Council Expense Reimbursement Policy (Resolution No. 67,992-N.S.) as the policy does not expressly allow reimbursement for international travel relating to city business.

**Financial Implications:** Mayor and Councilmember Discretionary Funds - \$6,000  
Contact: Jesse Arreguin, Mayor, (510) 981-7100

**Action:** Moved to Action Calendar. 0 speakers. M/S/C (Arreguin/Hahn) to adopt Resolution No. 69,094–N.S. as revised in the supplemental materials submitted at the meeting by Mayor Arreguin.

**Vote:** Ayes – Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – Kesarwani.

**42. Berkeley Community Fund Annual Gala and Benefit Event: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**

**From: Councilmember Davila**

**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Cheryl Davila, to support the Berkeley Community Fund Annual Gala and Benefit Event on September 28, 2019, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila, the Mayor and any other Councilmembers who would like to contribute.

**Financial Implications:** Councilmember's Discretionary Fund - \$250  
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

**Action:** Councilmember Wengraf added as a co-sponsor. Adopted Resolution No. 69,095–N.S. as revised in Supplemental Communications Packet #1 revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Wengraf - \$250; Councilmember Harrison - \$100; Councilmember Hahn - \$200; Councilmember Bartlett - \$100.

## Council Consent Items

- 43. Berkeley Youth Alternatives 1st Golf Tournament Supporting Education and Sports Activities: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmember Davila**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Cheryl Davila, to support the Berkeley Youth Alternatives 1st Golf Tournament Supporting Education and Sports Activities on September 30, 2019, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila, the Mayor and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Funds - \$250  
 Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120  
**Action:** Adopted Resolution No. 69,096–N.S. as revised in Supplemental Communications Packet #1 revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Wengraf - \$100; Councilmember Harrison - \$100; Councilmember Hahn - \$100; Councilmember Bartlett - \$200.
- 44. Pavement of Derby Street and Ward Street between Telegraph Ave and Shattuck Ave**  
**From: Councilmember Bartlett**  
**Recommendation:** That the Council refers consideration of the paving of Derby St. and Ward St. between Shattuck Ave and Telegraph Ave to the Public Works Commission in order to repair these deteriorating streets that serve as a part of a major commuter corridor which both individual drivers and buses use in their daily commute.  
**Financial Implications:** See report  
 Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130  
**Action:** Councilmember Robinson added as a co-sponsor. Approved recommendation as revised in Supplemental Communications Packet #2.  
**Vote:** Ayes – Kesarwani, Davila, Bartlett, Harrison, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Hahn.
- 45. Funding the Construction of a Pedestrian Signal at Ashby Street and Fulton Street**  
**From: Councilmember Bartlett**  
**Recommendation:** That the Council refers to the November Budget Annual Appropriations Ordinance to fund the construction of a pedestrian crossing signal at the intersection of Ashby and Fulton Street in order to address inadequate traffic control and stopping, reduce traffic accidents, and further safeguard the community.  
**Financial Implications:** See report  
 Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130  
**Action:** Approved recommendation revised to refer the item to the Vision Zero process for analysis.

## Council Consent Items

- 46. Funding for Pedestrian Crossing Signal at the intersection of Shattuck and Prince**  
**From: Councilmember Bartlett**  
**Recommendation:** That the Council refers to the November Budget Annual Appropriations Ordinance to fund pedestrian crossing signals on all directions of the Shattuck Avenue and Prince Street intersection in order to address inadequate traffic control and ensure the safety of travelers along these streets.  
**Financial Implications:** See report  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130  
**Action:** Approved recommendation revised to refer the item to the Vision Zero process for analysis.
- 47. Funding Streetlight Near South East Corner of Otis Street**  
**From: Councilmember Bartlett**  
**Recommendation:** That the Council refers to the City Manager to fund construction of a streetlight on the corner of Otis near Ashby.  
**Financial Implications:** See report  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130  
**Action:** Approved recommendation revised to change the item to a budget referral and refer an assessment of feasibility to the City Manager.
- 48. Request for Information Regarding Current Status and Progress on Traffic Mitigations at Dwight Way and California Street**  
**From: Councilmembers Bartlett and Harrison**  
**Recommendation:** Refer to the City Manager a request for information regarding the current status and progress on traffic mitigations and pedestrian safety improvements at the intersection of Dwight Way and California Street.  
**Financial Implications:** See report  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130  
**Action:** Approved recommendation.
- 49. Resolution in Support of Congresswoman Barbara Lee's Resolution (H. Res. 429): Affirming the Right of All Renters to a Safe, Affordable, and Decent Home**  
**From: Councilmembers Harrison, Bartlett, Hahn, and Robinson**  
**Recommendation:** Adopt a resolution in support of H. Res. 429, a resolution introduced by Congresswoman Barbara Lee. Send a letter of support to Congresswoman Lee.  
**Financial Implications:** None  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Adopted Resolution No. 69,097–N.S.

## Council Consent Items

**50. Resolution Endorsing the United Nations Convention on the Rights of the Child**

**From: Councilmembers Harrison and Bartlett**

**Recommendation:**

1. Adopt a resolution endorsing the United Nations Convention on the Rights of the Child.
2. Send a letter of support to Acting U.S. Ambassador to the United Nations, Jonathan Cohen.

**Financial Implications:** None

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

**Action:** Councilmembers Davila and Hahn added as co-sponsors. 1. Adopted Resolution No. 69,098–N.S. 2. Approved recommendation as revised in Supplemental Communications Packet #1.

**51. Co-Sponsorship of 2019 East Bay Community Emergency Prep Fair and Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**

**From: Councilmember Hahn**

**Recommendation:** Adopt a resolution approving the co-sponsorship by the City of Berkeley of the 2019 East Bay Community Emergency Prep Fair (“Emergency Prep Fair”) to be held at James Kenney Park on Saturday, October 12, 2019, and approving the expenditure of an amount not to exceed \$500 per councilmember, including \$300 from Councilmember Hahn, to the Berkeley Disaster Preparedness Neighborhood Network (BDPNN), a 501(c)(3) non-profit organization, for administrative fees, event production, and advertising in support of the Emergency Prep Fair, with funds relinquished to the City’s general fund for this purpose from the discretionary Council office budget of Councilmember Hahn, and any other Councilmembers who would like to contribute.

**Financial Implications:** None

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

**Action:** Councilmembers Davila, Kesarwani, and Wengraf added as co-sponsors. Adopted Resolution No. 69,099–N.S. amended to include contributions from the following Councilmembers up to the amounts listed: Councilmember Wengraf - \$300; Councilmember Harrison - \$100; Councilmember Kesarwani - \$100; Councilmember Bartlett - \$100.

## Council Consent Items

**52. Letter of Support for HR-3001 (Meng)**

**From: Councilmember Wengraf**

**Recommendation:** Send a letter of support for HR-3001, “The Quiet Communities Act of 2019,” to Representative Grace Meng, with copies to Representative Barbara Lee, and Senators Dianne Feinstein and Kamala Harris.

HR-3001 will reinstate the Federal Office of Noise Abatement and Control, tasked with developing State and Local noise control programs and carrying out research on airport, airplane and vehicular noise.

**Financial Implications:** None

Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

**Action:** Councilmembers Davila and Hahn added as co-sponsors. Approved recommendation.

**53. Voluntary Time Off on Statewide Election Days for City Employees** *(Reviewed by the Budget and Finance Committee)*

**From: Councilmembers Robinson, Davila, Hahn, and Droste**

**Recommendation:** Refer to the City Manager to designate Statewide Election Days as VTO days, and refer to the 2x2 Committee to discuss coordinating City and District policy on holidays, in particular Election Day.

**Financial Implications:** See report

Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

**Action:** Approved recommendation.

**Vote:** Ayes – Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – Kesarwani.

**54. Decriminalizing Entheogenic Plants** *(Reviewed by the Public Safety Committee)*

**From: Councilmembers Robinson and Davila**

**Recommendation:** Refer to the Community Health Commission for feedback regarding the adoption of a Resolution decriminalizing Entheogenic Plants and Fungi such as mushrooms, cacti, iboga containing plants, and/or extracted combinations of plants similar to Ayahuasca; and limited to those containing the following types of compounds: indole amines, tryptamines, phenethylamines, by restricting any city funds or resources to assist in the enforcement of laws imposing criminal penalties for the use and possession of Entheogenic Plants by adults age 21 and over.

**Financial Implications:** See report

Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

**Action:** Approved recommendation as revised below.

*Refer to the Community Health Commission to consider the possibility of de-prioritizing enforcement of laws relating to entheogenic plants and fungi by persons over 21 years of age. Consider potential health and community benefits and concerns, as well as possible policy variations with regard to possession, use, growing/production, and sales; quantities involved; use while driving; use during pregnancy and other possible “special circumstances considerations.”*

## Council Consent Items

**55. Game Day Parking - Minor Update to include RPP area K**

**From: Councilmember Droste and Mayor Arreguin**

**Recommendation:** Refer to the City Manager the modification of parking restrictions in specified RPP Zones on UC Berkeley home football game days as follows: establish “Enhanced Fine Areas” to prohibit parking without a valid RPP permit to include RPP Zone K; and install new RPP signs in zone K to clearly indicate UC Berkeley home football game day parking prohibitions.

**Financial Implications:** Staff time and signage

Contact: Lori Droste, Councilmember, District 8, (510) 981-7180

**Action:** Approved recommendation.

Recess 9:10 p.m. – 9:17 p.m.

## Action Calendar – Public Hearings

**56. Public Hearing and Approval of California Municipal Finance Authority Bond Financing for Berkeley Way Affordable Housing**

**From: City Manager**

**Recommendation:**

1. Conduct the public hearing under the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and the Internal Revenue Code of 1986, as amended; and

2. Adopt a Resolution approving the issuance of the Bonds by the California Municipal Finance Authority (CMFA) for the benefit of BRIDGE Berkeley Way LP, a California limited partnership (the “Borrower”), to provide for the financing of the Project, such adoption is solely for the purposes of satisfying the requirements of TEFRA, the Internal Revenue Code and the California Government Code Section 6500 (and following).

**Financial Implications:** See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

**Public Testimony:** The Mayor opened the public hearing. 0 speakers.

M/S/C (Hahn/Davila) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Hahn/Harrison) to adopt Resolution No. 69,100–N.S.

**Vote:** All Ayes.

## Action Calendar – Public Hearings

### 57. Public Hearing and Approval of California Municipal Finance Authority Bond Financing for Berkeley Way HOPE Center

**From: City Manager**

**Recommendation:**

1. Conduct the public hearing under the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and the Internal Revenue Code of 1986, as amended.
2. Adopt a Resolution approving the issuance of bonds by the California Municipal Finance Authority for the benefit of BFHP Hope Center LP, a California limited partnership (the “Borrower”), to provide for the financing of the Project, such adoption is solely for the purposes of satisfying the requirements of TEFRA, the Internal Revenue Code and the California Government Code Section 6500 (and following).

**Financial Implications:** See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

**Public Testimony:** The Mayor opened the public hearing. 0 speakers.

M/S/C (Kesarwani/Hahn) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Hahn/Davila) to adopt Resolution No. 69,101–N.S.

**Vote:** All Ayes.

### 58. Implement Residential Preferential Parking (RPP) Program on Sections of McGee Street and Rose Street

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon its conclusion, adopt a Resolution amending Resolution No. 56,508-N.S. Sections 25E and 25N by adding subsections to implement Residential Preferential Parking (RPP) on portions of two city streets.

**Financial Implications:** See report

Contact: Phillip Harrington, Public Works, (510) 981-6300

**Public Testimony:** The Mayor opened the public hearing. 0 speakers.

M/S/C (Robinson/Davila) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Hahn/Davila) to adopt Resolution No. 69,102–N.S.

**Vote:** All Ayes.



## Action Calendar – Old Business

### 59. Residential Preferential Parking (RPP) Program: Summer 2019 Update

*(Continued from July 23, 2019)*

**From: City Manager**

**Recommendation:** Direct staff to conduct analysis of Fiscal Year (FY) 2020 Residential Preferential Parking (RPP) Program costs and revenues and return to Council early 2020 with updated fee increase proposal(s) to be effective April 1, 2020 for the FY 2021 permit year for Program enhancement and expansion.

**Financial Implications:** See report

Contact: Phillip Harrington, Public Works, (510) 981-6300

**Action:** 0 speakers. Presentation made and discussion held.

## Action Calendar – New Business

### 60. Funding for Street Rehabilitation Capital Improvement Program in Berkeley

**From: City Manager**

**Recommendation:** In response to Council comments at the December 11, 2018 Council Meeting, this report provides information on current and future funding sources for street rehabilitation. Staff is requesting feedback on the funding available, including current expenditures, projected expenses, and plans, for the City's current and future Street Rehabilitation Capital Improvement Program (CIP).

**Financial Implications:** See report

Contact: Phillip Harrington, Public Works, 981-6300

**Action:** M/S/C (Arreguin/Hahn) to suspend the rules and extend the meeting to 11:30 p.m.

**Vote:** Ayes – Kesarwani, Bartlett, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – Davila, Harrison.

**Action:** M/S/C (Arreguin/Hahn) to suspend the rules and extend the meeting to 11:40 p.m.

**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – Davila; Abstain – None; Absent – Droste.

Councilmember Droste absent 11:10 p.m. – 11:40 p.m.

**Action:** 4 speakers. Discussion held.

## Council Action Items

### 61a. Health Study to be Conducted by Division of Public Health to Gather Data on Health Conditions, Health Disparities and Mortality Rates of Berkeley's Homeless

#### From: Homeless Commission

**Recommendation:** The Homeless Commission recommends that Council direct that the City Division of Public Health conduct a study gathering data on health conditions, health disparities and mortality rates of Berkeley's homeless for the last five years.

Such recommendation includes compiling information on Berkeley's homeless including persons living in shelters, in vehicles, on the streets, and any other location not intended for human habitation and who move between these settings. Such study shall include data on specific health conditions and make a comparative analysis between the homeless and Berkeley's general population and shall include demographics such as race, age, gender and known disability. Such study shall include how long the homeless person has lived on the streets and/or in shelters and attempt to track back the nature of their various residences for five years as is feasible.

Data for mortality rates among Berkeley's homeless shall also be gathered for the last five years. The mortality rates shall be examined for persons living in shelters, in vehicles, on the streets and any other location not intended for human habitation. The cause of death shall be identified and demographics such as race, age, gender and known disability compiled. Tracking the housing status of the persons, for the last five years, shall be identified as is feasible. If feasible, the length of residence in Berkeley shall be identified.

A comparative analysis with the general population shall be made. To the extent feasible and within legal constraints, whether or not the deceased individual was under the care of a medical provider shall be identified. All personal information should be redacted so as to comply with federal, state and local laws.

Recommendations shall be made to improve the health conditions of the homeless and decrease the mortality rates of homeless persons. Recommendations, within the City Division of Public Health's purview shall be made initially by them and return to Council where further recommendations can be made. Council shall provide the opportunity for the Homeless Commission, any other relevant commission, and the public to weigh in on recommendations following the release of the data/study.

**Financial Implications:** See report

Contact: Peter Radu, Commission Secretary, (510) 981-5400

## Council Action Items

**61b. Companion Report: Health Study to be Conducted by the Public Health Division to Gather Data on Health Conditions, Health Disparities and Mortality Rates of Berkeley's homeless**

**From: City Manager**

**Recommendation:** The Homeless Commission's recommendation to conduct a study on the health conditions, disparities, and mortality rates of Berkeley's homeless population addresses important issues within the City. Staff greatly appreciate the Commission's continued advocacy for the unhoused and their suggestions to gather as much relevant information as possible. Therefore, staff recommend asking Alameda County to explore the feasibility of recording homelessness as a data point in death records and/or making investments to begin tracking this information locally.

**Financial Implications:** None

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

**Action:** M/S/C (Arreguin/Wengraf) to hold over items 61a/b, 63a/b, and 66 to September 24, 2019.

**Vote:** All Ayes.

**62a. Conducting an Analysis of Increasing Inclusionary Housing over Affordable Housing Mitigation Fee**

**From: Homeless Commission**

**Recommendation:** The Homeless Commission recommends that Council direct or refer to the City Manager, as Council sees fit, to conduct an analysis of the current inclusionary housing/affordable housing mitigation fee structure and return to Council with the benefits/detriments of the following options:

1. Requiring inclusionary housing over the affordable housing mitigation fee;
2. Requiring an increased number of inclusionary units when the inclusionary option is utilized;
3. Providing incentives to developers to elect the inclusionary unit option over the affordable housing mitigation fee option;
4. Identifying designated geographical boundaries or Council districts which would require only inclusionary housing in new developments and not permit the affordable housing mitigation fee in those geographical boundaries or Council districts; and
5. As to all options, strengthening the ordinance for inclusionary units so as to mitigate homelessness by insuring access to units for extremely low-income persons and persons experiencing homelessness.

The Homeless Commission recommends that an analysis include updated data on the number of developments initiated in the last three years showing the number of inclusionary units added and the amount of affordable housing mitigation fees paid and to the extent feasible, a ten year projection of the numbers of planned developments and an analysis of the potential number of inclusionary units or amount of affordable housing mitigation fees anticipated. An analysis of various options should also consider a sunset clause so that amendments to current law would require revisiting the impact of any changes.

**Financial Implications:** See report

Contact: Peter Radu, Commission Secretary, (510) 981-5400

## Council Action Items

**62b. Companion Report: Conducting an Analysis of Increasing Inclusionary Housing over Affordable Housing Mitigation Fee**

**From: City Manager**

**Recommendation:** Refer to the City Manager to conduct a feasibility analysis for the recommendations by the Homeless Commission as part of the existing referral to examine potential reforms to the Affordable Housing Mitigation Fee.

**Financial Implications:** See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

**Action:** Item 62b moved to the Consent Calendar.

**63a. Utilization of City-Owned Property at 1281 University Avenue to House up to 8-10 RV Dwellers**

**From: Homeless Commission**

**Recommendation:** The Homeless Commission recommends that the currently unused City-owned property at 1281 University Avenue be used to house, on an interim basis, up to 8-10 RV dwellers, or as many as the property can safely accommodate, selected by the City of Berkeley. The RV dwellers would be selected by the City of Berkeley based on the strength of their ties to the community such as employment in Berkeley, attending school in Berkeley and families with children in Berkeley schools.

**Financial Implications:** See report

Contact: Peter Radu, Commission Secretary, (510) 981-5400

**63b. Companion Report: Utilization of City-Owned Property at 1281 University Avenue to House up to 8 - 10 RV Dwellers**

**From: City Manager**

**Recommendation:** Refer to the City Manager to conduct a feasibility analysis of 1281 University Avenue as an interim site to host Recreational Vehicle (RV) dwellers.

**Financial Implications:** See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

**Action:** Held over to September 24, 2019.

## Council Action Items

**64a. Expansion of Adeline Corridor Plan to Include Housing in Private Component for Extremely low-Income Persons**

**From: Homeless Commission**

**Recommendation:** The Homeless Commission recommends that the City Council identify a means to expand housing within the private housing component of inclusionary housing to include a set-aside for extremely low-income persons. The Commission recommends that be done either through retaining a consultant to conduct a nexus study to include extremely low-income housing in inclusionary housing, as to the Adeline Corridor, or by staff internally conducting that study so that inclusionary housing, within the Adeline Corridor, can be expanded to include a set-aside for extremely low-income persons.

**Financial Implications:** See report

Contact: Peter Radu, Commission Secretary, (510) 981-5400

**64b. Companion Report: Expansion of Adeline Corridor Plan to Include Housing in Private Component for Extremely low-Income Persons**

**From: City Manager**

**Recommendation:** If Council believes it is needed, refer to the FY20 November budget process the Homeless Commission's recommendation to hire a consultant for a nexus study to include extremely low-income housing in the Adeline Corridor Plan's inclusionary housing requirements. A cost estimate will be provided at the time of referral.

**Financial Implications:** None

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

**Action:** Item 64b moved to Consent Calendar with the recommendation revised as written below.

*Refer the Homeless Commission's recommendations to the Adeline Corridor Plan's inclusionary housing requirements.*

## Council Action Items

- 65. Open Doors Initiative: City Worker and First Time Affordable Homebuyer Program** *(Reviewed by the Land Use, Housing & Economic Development Committee)*

**From: Councilmembers Bartlett, Robinson, and Mayor Arreguin**

**Recommendation:** That the City Council refer the City Manager and Housing Advisory Committee to explore mechanisms to support homeownership by City of Berkeley First-Responders and other critical safety staff and further refer to City Manager to prepare a report detailing available first-time homeownership and low-income homeowner programs that might be available for implementation in the City of Berkeley (Qualified Positive Recommendation from the Land Use, Housing & Economic Development Committee).

**Financial Implications:** See report

Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

**Action:** Moved to Consent Calendar with a revised recommendation as follows:

*That the City Council refer the City Manager and Housing Advisory Committee to explore mechanisms to support homeownership by City of Berkeley employees and further refer to City Manager to prepare a report detailing available first-time homeownership and low-income homeowner programs that might be available for implementation in the City of Berkeley. Analysis to include the new Self-Help Housing Program and the provisions of AB 101.*

### Action Calendar – New Business

- 66. Referral Response: Lava Mae Mobile Shower and Hygiene Services**

**From: City Manager**

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

**Action:** Held over to September 24, 2019.

### Action Calendar – Old Business

- 67. Repealing and Reenacting BMC Chapter 13.104, Wage Theft Prevention**

*(Continued from July 23, 2019)*

**From: Mayor Arreguin and Councilmember Harrison**

**Recommendation:** Adopt second reading of Ordinance No. 7,668-N.S. repealing and reenacting BMC Chapter 13.104, Wage Theft Prevention to improve enforcement of the ordinance by requiring a signed acknowledgement of ordinance requirements and signed attestation at completion of the project.

First Reading Vote: All Ayes.

**Financial Implications:** Staff time

Contact: Jesse Arreguin, Mayor, (510) 981-7100

**Action:** Item held over to September 24, 2019.

## Information Reports

- 68. Recommendations Status: Easy Does It City Grant Funding Audit**  
**From: City Manager**  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400  
**Action:** Received and filed. (Supplemental material in Supplemental Communications Packet #2)
- 69. LPC NOD: 2526 Hawthorne Terrace/#LMIN2019-0002**  
**From: City Manager**  
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400  
**Action:** Received and filed.
- 70. LPC NOD: 1911 Fourth Street/#LMSAP2019-0005**  
**From: City Manager**  
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400  
**Action:** Received and filed.
- 71. Commission on Labor 2020-2021 Work Plan**  
**From: Commission on Labor**  
Contact: Delfina Geiken, Commission Secretary, (510) 981-5400  
**Action:** Received and filed.
- 72. LPC Annual Report to City Council for the period May 2018 to May 2019**  
**From: Landmarks Preservation Commission**  
Contact: Fatema Crane, Commission Secretary, (510) 981-7400  
**Action:** Received and filed.
- 73. Parks and Waterfront Commission 2019 Work Plan**  
**From: Parks and Waterfront Commission**  
Contact: Roger Miller, Commission Secretary, (510) 981-6700  
**Action:** Received and filed.
- 74. Police Review Commission Work Plan for 2019-2020**  
**From: Police Review Commission**  
Contact: Katherine Lee, Commission Secretary, (510) 981-4950  
**Action:** Received and filed.
- 75. Update on Assembly Bill 101 and Local Government Planning Support Grants**  
**From: Mayor Arreguin**  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda - 2 speakers.**

## Adjournment

Adjourned at 11:40 p.m.

I hereby certify that the forgoing is a true and correct record of the regular meeting of September 10, 2019 as approved by the Berkeley City Council.

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Mark Numainville, City Clerk

**Vivian Warkentin URL's**

1. Vivian Warkentin (3)

**Item #54: Decriminalizing Entheogenic Plants**

2. Lydia La Roux

**Item #64b: Companion Report: Expansion of Adeline Corridor Plan to Include Housing in Private Component of Extremely low-income persons**

3. Steering Committee for South Berkeley NOW
4. Friends of Adeline
5. Teresa Clarke
6. Larisa Cummings
7. Julia Cato

**Traffic Circle**

8. Emily Modde

**Crime is the #1 Issue**

9. Wende Micco

**5G**

10. Phoebe Anne Sorgen
11. Jill Jones

**Natural Gas**

12. John Jones
13. League of Women Voters
14. Joel Goodman
15. H. Wayne Snavelly
16. James Haley

**Gun Control**

17. Tom Lent
18. David Danello

**Spit Masks**

19. Maris Arnold
20. Christine Schwartz



## Communications

### **BART**

- 21. Sara Fain
- 22. Talia Falk

### **Compostable Packaging**

- 23. Pureco Products
- 24. Todd Gasparik
- 25. Brian Dow (2)

### **Gender Neutral**

- 26. George Losoncy
- 27. Randy Hoff
- 28. Arejayel@ (3)
- 29. Richard Ward
- 30. Carlisle Johnson
- 31. Mathewskillingsagain77@

### **Homelessness**

- 32. Margot Smith
- 33. Jessica Behrman
- 34. Mike Lee
- 35. Jennifer Hamilton
- 36. Genevieve Wilson
- 37. Bryce Nesbitt

### **Climate Change**

- 38. David Lerman
- 39. Berkeley Citizens Action
- 40. Thomas Lord

### **Christine Schwartz**

- 41. Liz Wiener
- 42. Marcia Poole
- 43. Christine Schwartz

### **RV's**

- 44. Charles Bullett
- 45. Alyson Mitchell
- 46. Erwan Illian (2)
- 47. Alfred Manning
- 48. Barbara Rydlander
- 49. John Palmer
- 50. Tricia Paulson
- 51. Pam Speich (3)
- 52. Genevieve Wilson
- 53. Daniel Jurnove

## Communications

- 54. Dan McDunn (3)
- 55. Councilmember Kesarwani
- 56. David Lerman
- 57. Barbara

### Pool

- 58. Rebecca Burke
- 59. Parks, Recreation and Waterfront Department
- 60. Linda Worthman (2)
- 61. Lynn Jones-Finn
- 62. Lorraine Gunther
- 63. Diane Tomkins
- 64. Barbara Rylander

### Berkeley Considers Issues

- 65. Barbara Gilbert (3)
- 66. Tony Benado
- 67. Matthai Chakko

### Worst City of Berkeley

- 68. Margot Smith
- 69. Barbara Gilbert
- 70. Jessica Behrman

### Trash Truck Fire and Creek Damage

- 71. Nicholas Dominguez, on behalf of the Public Works Commission
- 72. Susan Schwartz, on behalf of Friends of Five Creeks

### Use of Surveillance Technology - Security Cameras

- 73. Brian Hofer, on behalf of Secure Justice (2)

### Bicycle and Pedestrian Accidents

- 74. Michael and Denise Harland

### Street Rehab and Plan Include Bicycles

- 75. Ben Gerhardstein

### “13 Reasons” Movie Shoot

- 76. Adrian Kierman

### Dangerous Conditions – Street Lights

- 77. David Lerman

### Evaluation of the City Manager

- 78. Linda Franklin

## Communications

### **Rent Increase for Commercial Buildings**

79. Lucinda Olney

### **Scooters Safety Risk**

80. Moni Law

### **East Bay Seniors**

81. Joann Sullivan

### **Street Sweeping Reminder**

82. David Lerman

83. Melanie McLean, on behalf of the City Manager's Office

### **Lawrence Berkeley National Laboratory**

84. bcitizen@

### **Gabriela Costello-Kramer Complaint**

85. Margaret Fine (2)

86. Gabriela Kramer

### **Dumb Cities**

87. Margy Wilkinson

### **Opportunity Zones**

88. Barbara Gilbert

### **Hilldale Avenue and Bonnie Lane Infrastructure**

89. Max Blanchet

90. I-Kuna Lin

### **Sherriff Audit**

91. Richard Vale, President, Board of Supervisors

### **Weeds/Trash at the Public Safety Building**

92. Kathi Pugh

### **Hotel Construction at University and Sacramento**

93. Jesse Goldberg

### **Amazon and ICE**

94. Mimi Main

### **Outdoor Public Warning Siren System**

95. Gradiva Couzin, on behalf of the Disaster and Fire Safety Commission

### **Homeless Tombstones**

## Communications

96. Barbara Brust

### Library Complaint

97. Barbara Gilbert

98. Councilmember Hahn

### Wild Urban Interface

99. Bob Flasher

### Kids On The Line

100. Chimney5@

### IKE Kiosks

101. Stuart Baker, on behalf of the Telegraph Business Improvement District

### Berkeley Big People

102. Karen Eichler

103. Richard Whitlock

104. Catherine Bathrick

105. Liz Hoadley

106. Scott Donahue

107. Marsha Gale

### Berkeley Property Taxes

108. Jessica Behrman

### Public Safety Issue at University and Shattuck

109. Gary Simons

### Berkeley Parking Tickets

110. David Lerman

### Habitat for Humanity

111. Lori Pottinger

### 1444 Fifth Street Project

112. Law Offices of Holland & Knight

### Cashless Businesses in Berkeley

113. Cassia Stepak

## Supplemental Communications and Reports 1

### Item #38: Resolution: Oppose U.S. Withdrawal from INF Treaty

114. Revised material, submitted by Councilmember Harrison

**Item #41: Approval of One-Time Reimbursement for Sister City Visit to Gongju, Republic of Korea**

115. Barbara Gilbert

**Item #42: Berkeley Community Fund Annual Gala and Benefit Event: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**

116. Revised material, submitted by Councilmember Davila

**Item #43: Berkeley Youth Alternatives 1st Golf Tournament Supporting Education and Sports Activities: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**

117. Revised material, submitted by Councilmember Davila

**Item #44: Pavement of Derby Street and Ward Street between Telegraph Avenue and Shattuck Avenue**

118. Supplemental material, submitted by Councilmember Bartlett

**Item #50: Resolution Endorsing the United Nations Convention on the Rights of the Child**

119. Supplemental material, submitted by Councilmember Harrison

**Item #65: Open Doors Initiative: City Worker and First Time Affordable Homebuyer**

120. Thomas Lord, on behalf of the Housing Advisory Commission

**Supplemental Communications and Reports 2**

**Item #2: Referral Response: Short-term referral to City Manager to amend Berkeley Municipal Code 7,441-N.S. to expand the control of flavored tobacco across the City of Berkeley toward preventing youth and young adult tobacco use**

121. Maria Teresa Garcid de la Noceda

**Item #33: Commission Referral: Recommendation to Install an Outdoor Public Warning System (Sirens) and Incorporate It Into a Holistic Emergency Alerting Plan**

122. Shirley Dean

**Item #35: 1281 University Avenue Request for Proposals**

123. Shirley Dean

**Item #44: Pavement of Derby Street and Ward Street between Telegraph Avenue and Shattuck Avenue**

124. Supplemental material, submitted by Councilmember Bartlett

**Item #48: Request for Information Regarding Current Status and Progress on Traffic Mitigations at Dwight Way and California Street**

125. Charles Siegel

126. Holly Scheider

**Item #55: Game Day Parking - Minor Update to include RPP area K**

127. Janice Thomas

**Item #56: Public Hearing and Approval of California Municipal Finance Authority Bond Financing for Berkeley Way Affordable Housing**

128. David Denton

**Item #59: Residential Preferential Parking (RPP) Program: Summer 2019 Update**

129. David Lerman

**Item #68: Recommendations Status: Easy Does It City Grant Funding Audit**

130. Supplemental materials, submitted by the City Auditor

**Item #65: Open Doors Initiative: City Worker and First Time Affordable Homebuyer**

131. 49 Communications submitted via Berkeley Considers, includes summary information.

**Supplemental Communications and Reports 3**

**Item #38: Resolution: Oppose U.S. Withdrawal from INF Treaty**

132. Peace and Justice Commission

**Item #41: Approval of One-Time Reimbursement for Sister City Visit to Gongju, Republic of Korea**

133. Revised material, submitted by Mayor Arreguin

134. Ben Gould

**Item #58: Implement Residential Preferential Parking (RPP) Program on Sections of McGee Street and Rose Street**

135. Beth Goldstein

136. Bryce Nesbitt

137. Toby Salk

**Item #60: Funding for Street Rehabilitation Capital Improvement Program in Berkeley**

138. Presentation, submitted by Public Works

139. City Auditor

**Item #65: Open Doors Initiative: City Worker and First Time Affordable Homebuyer Program**

140. Chimey Lee

**City Manager Comments**

141. City Manager

**MINUTES  
BERKELEY CITY COUNCIL  
SPECIAL MEETING MINUTES**

**TUESDAY, SEPTEMBER 17, 2019**

**4:30 P.M.**

**School District Board Room – 1231 Addison Street, Berkeley, CA**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – CHERYL DAVILA  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – LORI DROSTE

**Preliminary Matters**

**Roll Call:** 4:40 p.m.

**Present:** Kesarwani, Davila, Hahn, Wengraf, Robinson, Droste

**Absent:** Bartlett, Harrison, Arreguin

Mayor Arreguin present at 4:54 p.m.

Councilmember Bartlett present at 5:02 p.m.

**Public Comment - Limited to items on this agenda only – 0 speakers**

**CLOSED SESSION:**

The City Council will convene in closed session to meet concerning the following:

**1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(2):**

**Anticipated Litigation: One case**

**Action:** M/S/C (Wengraf/Hahn) to direct the City Manager to approve a settlement agreement as to a workers’ compensation excess insurance contract dispute with Continental Casualty Insurance Company (CNA) whereby the City would accept \$650,000.00 in resolution of workers’ compensation excess insurance reimbursement claims.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Harrison.

**2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54956.8**

|                      |                                            |
|----------------------|--------------------------------------------|
| Property address:    | 742 Grayson Street                         |
| Agency Negotiators:  | Dee Williams-Ridley, City Manager          |
| Negotiating parties: | City of Berkeley and 742 GRAYSON OWNER LLC |
| Property owner:      | City of Berkeley                           |
| Under negotiation:   | Price and terms                            |

**Action:** No reportable action.

**OPEN SESSION:**

City Council met in closed session Pursuant to Government Code Section 54956.9(d)(2) and provided direction to approve a settlement agreement as to a workers' compensation excess insurance contract dispute with Continental Casualty Insurance Company (CNA) whereby the City would accept \$650,000.00 in resolution of workers' compensation excess insurance reimbursement claims.

**Adjournment**

**Action:** M/S/C (Droste\Wengraf) to adjourn the meeting.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Harrison.

Adjourned at 5:36 p.m.

I hereby certify that the foregoing is a true and correct record of the special closed meeting of September 17, 2019 as approved by the City Council.

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Mark Numainville, City Clerk



**MINUTES  
SPECIAL MEETING OF THE  
BERKELEY CITY COUNCIL**

**Tuesday, September 17, 2019**

**6:00 P.M.**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – CHERYL DAVILA  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – LORI DROSTE

## **Preliminary Matters**

**Roll Call:** 6:08 p.m.

**Present:** Davila, Hahn, Wengraf, Robinson, Droste, Arreguin

**Absent:** Kesarwani, Bartlett, Harrison

Councilmember Kesarwani present at 6:16 p.m.

Councilmember Bartlett present at 6:42 p.m.

## **Report from Closed Session:**

City Council met in closed session Pursuant to Government Code Section 54956.9(d)(2) and provided direction to approve a settlement agreement as to a workers' compensation excess insurance contract dispute with Continental Casualty Insurance Company (CNA) whereby the City would accept \$650,000.00 in resolution of workers' compensation excess insurance reimbursement claims.

## **Worksession**

1. **City of Berkeley Arts and Culture Plan, 2018 Update**  
**From: City Manager**  
Contact: Jordan Klein, Economic Development, (510) 981-7530  
**Action:** 2 speakers. Presentation made and discussion held.
2. **Zero Waste Rate Review**  
**From: City Manager**  
Contact: Phillip Harrington, Public Works, (510) 981-6300  
**Action:** 1 speaker. Presentation made and discussion held.

## Adjournment

**Action:** M/S/C (Wengraf\Bartlett) to adjourn the meeting.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – None; Absent – Harrison, Droste.

Councilmember Droste absent 8:47 p.m. – 9:22 p.m.

Adjourned at 9:22 p.m.

I hereby certify that the forgoing is a true and correct record of the special meeting of September 17, 2019 as approved by the Berkeley City Council.

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Mark Numainville, City Clerk

## Communications

- None

## Supplemental Communications and Reports 1

- None

## Supplemental Communications and Reports 2

- None

## Supplemental Communications and Reports 3

### Item #1: City of Berkeley Arts and Culture Plane, 2018 Update

1. Presentation, submitted by the Office of Economic Development

### Item #2: Zero Waste Rate Review

2. Presentation, submitted by Public Works

**MINUTES  
BERKELEY CITY COUNCIL  
SPECIAL MEETING MINUTES**

**TUESDAY, SEPTEMBER 24, 2019**

**5:30 P.M.**

**School District Board Room – 1231 Addison Street, Berkeley, CA**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – CHERYL DAVILA  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – LORI DROSTE

### **Preliminary Matters**

**Roll Call:** 5:48 p.m.

**Present:** Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf

**Absent:** Robinson, Droste, Arreguin

Councilmember Droste present at 5:52 p.m.

**Public Comment - Limited to items on this agenda only – 0 speakers**

### **CLOSED SESSION:**

The City Council will convene in closed session to meet concerning the following:

**1. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTIONS 54956.9(a) AND 54956.9(d)(1)**

Claim by David Dhaliwal, Austine Warren, and Gary Fong No. 0109BC2019-0001

**Action:** M/S/C (Hahn\Harrison) On Claim No. 0109BC2019-000 by Dhaliwal, Warren, and Fong, Council authorized the City Manager to accept a drainage easement on private property in exchange for rebuilding a drainpipe with existing Engineering Division funds on the property that runs from the City's roadway to a creek.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf; Noes – None; Abstain – None; Absent – Robinson, Arreguin.

**2. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTIONS 54956.9(a) AND 54956.9(d)(1)**

Taehee Park v. City of Berkeley, Alameda County Superior Court No. RG 17 852489

**Action:** M/S/C (Bartlett\Hahn) to authorize the City Attorney to settle Park v. City of Berkeley (RG 17 852489) for \$110,000.

**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Droste; Noes – None; Abstain – Davila; Absent – Robinson, Arreguin.

## OPEN SESSION:

The City Council met in closed session and authorized the City Attorney to settle Park v. City of Berkeley (RG 17 852489) for \$110,000.

On Claim No. 0109BC2019-000 by Dhaliwal, Warren, and Fong, Council authorized the City Manager to accept a drainage easement on private property in exchange for rebuilding a drainpipe with existing Engineering Division funds on the property that runs from the City's roadway to a creek.

## Adjournment

**Action:** M/S/C (Droste\Davila) to adjourn the meeting.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf; Noes – None; Abstain – None; Absent – Robinson, Droste, Arreguin.

Adjourned at 6:02 p.m.

I hereby certify that the foregoing is a true and correct record of the special closed meeting of September 24, 2019 as approved by the Berkeley City Council.

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Mark Numainville, City Clerk

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, September 24, 2019**  
**6:00 PM**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
 DISTRICT 2 – CHERYL DAVILA  
 DISTRICT 3 – BEN BARTLETT  
 DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
 DISTRICT 6 – SUSAN WENGRAF  
 DISTRICT 7 – RIGEL ROBINSON  
 DISTRICT 8 – LORI DROSTE

## Preliminary Matters

**Roll Call:** 6:09 p.m.

**Present:** Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Droste

**Absent:** Robinson, Arreguin

## Closed Session Report

The City Council met in closed session and authorized the City Attorney to settle Park v. City of Berkeley (RG 17 852489) for \$110,000.

On Claim No. 0109BC2019-000 by Dhaliwal, Warren, and Fong, Council authorized the City Manager to accept a drainage easement on private property in exchange for rebuilding a drainpipe with existing Engineering Division funds on the property that runs from the City's roadway to a creek.

## Ceremonial Matters:

1. Recognition of 50<sup>th</sup> Anniversary of Berkeley Free Clinic
2. Recognition of Sandy Bails
3. Recognition of Emmaline Campbell
4. Recognition of Indigenous People's Day
5. Adjourn in Memory of Sally Floyd, Berkeley Resident

## City Manager Comments:

1. The Mental Health Crisis Line is available to the public at 981-5244
2. Testing and monitoring of the water quality at Aquatic Park will continue
3. The new Lorin District Art Banners were unveiled today, September 24
4. The year-round hours at West Campus Pool start on October 1
5. The Berkeley Police Dept. recruitment site, [www.joinberkeleypd.com](http://www.joinberkeleypd.com) is now live

**Public Comment on Non-Agenda Matters:** 10 speakers.

**Action:** M/S/C (Harrison/Droste) to make the findings that the item related to the Purchase Agreement with Pierce Manufacturing, Inc. and Contract No. 078804-1 (8068) Amendment: Banc of America Public Capital Corp. for Master Equipment Lease/Purchase Agreement for four Fire Engines and one 107' Tiller (Ladder Truck) is of urgent necessity and that the subject came to the attention of the agency after the agenda was published, and to add the item to the agenda.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Droste; Noes – None; Abstain – None; Absent – Robinson, Arreguin.

**Public Comment on Consent Calendar and Information Items Only:** 8 speakers.

**Action:** M/S/C (Droste/Hahn) to adopt the Consent Calendar in one motion except as indicated.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Droste; Noes – None; Abstain – None; Absent – Robinson, Arreguin.

## Consent Calendar

**Urgency Item: Purchase Agreement with Pierce Manufacturing, Inc. and Contract No. 078804-1 (8068) Amendment: Banc of America Public Capital Corp. for Master Equipment Lease/Purchase Agreement for four Fire Engines and one 107' Tiller (Ladder Truck)**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to purchase four Pierce Quantum Pumpers and one Pierce Quantum 107' Tiller by executing: 1. Purchase Agreement with Pierce Manufacturing, Inc. in an amount not to exceed \$5,582,101 that includes a contingency amount of \$638,479 providing for California sales tax of \$457,281, and a pre-pay discount of \$181,198; and 2. Increase the Master Equipment Lease/Purchase Agreement with Banc of America Public Capital Corp. by \$4,943,624 (prior to sales tax, equipment only) yielding an amended total NTE amount of \$17,200,459 on Contract No. 078804-1 (8068) with financing pursuant to the amendment to be paid over 7 years at an interest rate of 1.75% and a first payment commencing no later than March 30, 2020; and 3. Purchase Order for direct payment of sales tax in an amount not to exceed \$457,281.

**Financial Implications:** See report

Contact: Phillip Harrington, Public Works, (510) 981-6300

**Action:** Adopted Resolution No. 69,103–N.S.

## Consent Calendar

- 1. Agreement with East Bay Regional Park District for Drainage, Slope, and Maintenance Access Easements in Tilden Regional Park**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,675-N.S. authorizing the City Manager to execute an agreement with the East Bay Regional Park District (EBRPD) for Drainage, Slope and Maintenance Access Easements at Tilden Regional Park.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300  
**Action:** Adopted second reading of Ordinance No. 7,675-N.S.
- 2. Contract No. 9900 Amendment: NetFile for Online Campaign Report, Form 700, and Lobbyist Registration Filing and Tracking**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract amendment with Westcoast Online Information Systems, Inc. dba NetFile, to increase the not-to-exceed amount by \$19,200 for a total not-to-exceed amount of \$133,200, to pay for regular annual maintenance costs for online campaign report and Form 700 filing and tracking, to add to the capacity of online filers by 350 to allow for the addition of commissioner Form 700 e-filing, and to add the services related to the new lobbyist registration filing system through May 31, 2023.  
**Financial Implications:** See report  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Adopted Resolution No. 69,104–N.S.
- 3. Contract: NV5 for Web Content Copywriting Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with NV5 to develop content for the City's website. The contract would be for a one year period, starting September 25, 2019, for a total contract amount not to exceed \$150,000.  
**Financial Implications:** General Funds - \$150,000  
Contact: Matthai Chakko, City Manager's Office, (510) 981-7000  
**Action:** Adopted Resolution No. 69,105–N.S.
- 4. IKE Smart City Kiosk Locations, Phase One**  
**From: City Manager**  
**Recommendation:** Approve the locations for the first phase of deployment of 15 IKE Smart City Kiosks in the Downtown, Telegraph and Lorin commercial districts pursuant to Ordinance No. 7,626-N.S. granting the Franchise Agreement with IKE Smart City, LLC.  
**Financial Implications:** See report  
Contact: Jordan Klein, Economic Development, (510) 981-7530  
**Action:** Moved to Action Calendar. Item held over to October 15, 2019.

## Consent Calendar

- 5. Referral Response: Modifications to the Zoning Ordinance to Support Small Businesses**  
**From: City Manager**  
**Recommendation:** Refer to the Planning Commission modifications to the Zoning Ordinance that are designed to streamline the zoning review process for new or expanding small businesses in Berkeley  
**Financial Implications:** See report  
Contact: Jordan Klein, Economic Development, (510) 981-7530  
**Action:** Moved to Action Calendar. Item held over to October 15, 2019.
- 6. Revisions to the Berkeley Revolving Loan Fund Administrative Plan**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the revised Administrative Plan for the Berkeley Revolving Loan Fund (RLF).  
**Financial Implications:** See report  
Contact: Jordan Klein, Economic Development, (510) 981-7530  
**Action:** Adopted Resolution No. 69,106–N.S.
- 7. Contract No. 31900273 Amendment: Bay Area Community Services (BACS) to Add Funds for Housing Problem-Solving**  
**From: City Manager**  
**Recommendation:** Adopt a resolution authorizing the City Manager to execute a contract amendment to add \$300,000 to the existing four year (FY20-23) contract with Bay Area Community Services (BACS) for Coordinated Entry System operations, for a revised total contract amount not to exceed \$6,880,149. These funds will be used as flexible funding for people experiencing homelessness and presenting at the North County Housing Resource Center.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 69,107–N.S.
- 8. Operating Funding for Community Housing Development Organizations**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Approving operating funding in the amount of \$28,115 each for FY 2020 for Community Housing Development Organizations (CHDOs) Resources for Community Development and Satellite Affordable Housing Associates; and 2. Authorizing the City Manager to execute all original or amended documents or agreements to effectuate this action.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 69,108–N.S.



## Consent Calendar

- 9. Referral Response: Tenant Opportunity to Purchase Act (TOPA) Ordinance**  
*(Continued from June 11, 2019)*  
**From: City Manager**  
Contact: Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Received and filed.
- 10. Settlement Authority of City Manager for Workers' Compensation Claims**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution to establish and grant authority to the City Manager to settle workers' compensation claims up to \$75,000 per employee claim.  
**Financial Implications:** See report  
Contact: LaTanya Bellow, Human Resources, (510) 981-6800  
**Action:** Moved to Action Calendar. Item held over to October 15, 2019.
- 11. Adopt a Resolution Authorizing the City Manager to Provide a Three Percent (3%) Special Class Commercial License Premium to the Solid Waste Supervisor Job Classification**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution to: (1) Provide Public Employees Union, Local One's (Local One) a three percent (3%) Special Class Commercial License Premium to the Solid Waste Supervisor Job Class; and, (2) provide the incumbents in the Solid Waste Supervisor classification a three percent differential pay (Add Pay) to maintain internal pay equity.  
**Financial Implications:** See report  
Contact: LaTanya Bellow, Human Resources Director, (510) 981-6800  
**Action:** Adopted Resolution No. 69,109–N.S.
- 12. Contract: Ghilotti Construction Company for John Hinkel Park Improvement Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Approving the plans and specifications for John Hinkel Park Improvement Project, Specification No. 19-11321-C; and 2. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, with Ghilotti Construction Company, for the John Hinkel Park Improvement Project at 41 Somerset Avenue, Berkeley, CA 94704, in an amount not to exceed \$790,306, which includes a contract amount of \$658,588 and a 20% contingency in the amount of \$131,718.  
**Financial Implications:** Measure WW Parks Bond Fund (Fund 345) and Parks Tax Fund (Fund 138) - \$790,306  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,110–N.S.

## Consent Calendar

13. **Contract: The Dutra Group for the South Cove ADA Accessible Gangway Project at the Berkeley Marina**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Approving the plans and specifications for the South Cove ADA Accessible Gangway Project, (Bid Specification No. 19-11340); and 2. Accepting the bid of The Dutra Group as the lowest responsive and responsible bidder on the Project, and authoring the City Manager to execute a contract with The Dutra Group, and any amendments, extensions, or change orders until completion of the Project in accordance with the approved plans and specifications in an amount not to exceed \$261,100, and authorizing a 15% contingency of \$39,165.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,111–N.S.
14. **Contract: Mar Con Builders, Inc. for Live Oak Community Center Seismic Upgrade Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Approving the plans and specifications for the Live Oak Community Center Seismic Upgrade project, Specification No. 19-11320-C; and 2. Accepting the bid of the lowest responsive and responsible bidder, Mar Con Builders, Inc.; and 3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, with Mar Con Builders, Inc., for the Live Oak Community Center Seismic Upgrade project at 1301 Shattuck Avenue, Berkeley, CA 94704, in an amount not to exceed \$6,271,635, which includes a contract amount consisting of base bids and three alternates of \$5,226,363 and a 20% contingency in the amount of \$1,045,272.  
**Financial Implications:** \$6,271,635  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,112–N.S. as amended in Supplemental Reports and Communications Packet #1 to revise the dollar amounts as follows: Total construction cost is in an amount not to exceed \$5,415,927, which includes a contract amount of \$4,923,570 and a 10% contingency amount of \$492,357.

## Consent Calendar

- 15. Contract: Don Fowler Construction for Berkeley Tuolumne Camp Repairs, Specification 19-11333**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Approving plans and specifications for the Berkeley Tuolumne Camp Cabin Repairs Project (Specification No. 19-11333); 2. Accepting the bid of the lowest responsible bidder, Dow Fowler Construction; and 3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders with Don Fowler Construction until completion of the Project in accordance with the approved plans and specifications, in an amount not to exceed \$228,735, which includes a 15% contingency for unforeseen circumstances.  
**Financial Implications:** \$228,735  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,113–N.S.
- 16. Grant Application for Technical Assistance to Develop a Proposal for Challenge Grant for Housing Protection and Preservation**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to submit a grant application in the amount of \$7,000 to The San Francisco Foundation, in order to receive technical assistance from SEEDs Collaborative to help develop a competitive Partnership for the Bay’s Future Challenge Grant proposal, and to accept grant funds and execute a resulting grant agreement.  
**Financial Implications:** See report  
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400  
**Action:** Adopted Resolution No. 69,114–N.S.
- 17. Contract No. 31900106 Amendment: Coastland Civil Engineering for On-Call Civil Engineering Services for the Sanitary Sewer Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 31900106 with Coastland Civil Engineering (Coastland) for On-Call Civil Engineering Services for the Sanitary Sewer Program, increasing the contract by \$500,000, for a total amount no to exceed \$900,000, and extending the term of the contract from June 30, 2021 to June 30, 2022.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,115–N.S.

## Consent Calendar

18. **Contract No. 10485 Amendment: Fehr & Peers, Inc. for On-Call Transportation Planning Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 10485 with Fehr & Peers, Inc. for On-Call Transportation Planning Services, increasing the contract by \$225,000, for a total amount not to exceed \$725,000.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,116–N.S.

## Council Consent Items

19. **Support H.R. 2809 – The Improving Access to Nutrition Act of 2019**  
**From: Mayor Arreguin and Councilmembers Robinson and Bartlett**  
**Recommendation:** Adopt a Resolution in support of H.R. 2809 – The Improving Access to Nutrition Act of 2019. Send a copy of the Resolution to Congressperson Barbara Lee, Senators Dianne Feinstein and Kamala Harris, and President Donald Trump.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Councilmember Hahn added as a co-sponsor. Adopted Resolution No. 69,117–N.S.
20. **United Against Hate Week 2019**  
**From: Mayor Arreguin, and Councilmembers Wengraf, Harrison, and Bartlett**  
**Recommendation:** Adopt a Resolution approving the D-13 expenditure of \$1,000 in an amount not to exceed \$250 per Councilmember, to Not in Our Town for United Against Hate Week scheduled for November 17-23, 2019.  
**Financial Implications:** See report  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Adopted Resolution No. 69,118–N.S. amended to add contributions from the following Councilmembers up to the amounts listed: Councilmember Davila - \$100; Councilmember Harrison - \$100; Councilmember Hahn - \$100; Councilmember Wengraf - \$100.
21. **Clean Air Day 2019**  
**From: Mayor Arreguin, and Councilmembers Wengraf, Harrison, and Bartlett**  
**Recommendation:** Adopt a Resolution declaring October 2nd, 2019 as Clean Air Day.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Adopted Resolution No. 69,119–N.S.

## Council Consent Items

- 22. Letter in Support of AB 342, Prohibiting the Use of Public Lands for Oil and Gas Production**  
**From: Councilmembers Davila, Harrison, and Hahn**  
**Recommendation:** Send a Letter to Governor Gavin Newsom In Support of AB 342 by State Assemblymember Al Muratsuchi, prohibiting the State of California from authorizing new construction of oil and gas infrastructure upon public lands and direct the city clerk or designee to send a letter to our state representatives.  
**Financial Implications:** None  
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120  
**Action:** Approved recommendation.
- 23. Letter in Support of SB 210, Implementing a Comprehensive Heavy Duty Vehicle Inspection and Maintenance Program**  
**From: Councilmembers Davila, Harrison, and Hahn**  
**Recommendation:** Send a Letter to Governor Gavin Newsom In Support of SB 210 by Senator Connie Leyva, authorizing the California Air Resources Board (CARB) to develop and implement a comprehensive heavy duty vehicle inspection and maintenance program, similar to Smog Check requirements for other vehicles, and direct the city clerk or designee to send a letter to our state representatives.  
**Financial Implications:** None  
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120  
**Action:** Approved recommendation.
- 24. Pollinators and Habitat**  
**From: Councilmembers Harrison, Wengraf and Bartlett**  
**Recommendation:** Adopt three referrals that will deepen Berkeley's commitment to protecting pollinator plants and establishing habitats that will protect pollinators and our environment:  
1. Refer to City Manager to establish a City Liaison to the Bee City USA program.  
2. Refer to Public Works Commission and Parks and Waterfront Commission consideration of how to incorporate pollinators and habitat into the Adopt-A-Spot initiative referred on April 2, 2019.  
3. Refer to the City Manager to transition the City's medians to non-turf green infrastructure, including pollinator gardens when appropriate.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Councilmember Hahn added as a co-sponsor. Approved recommendation.

## Council Consent Items

**25. Naming Berkeley Paths for Women Founders of the Berkeley Path Wanderers Association**

**From: Councilmember Hahn, Mayor Arreguin, and Councilmembers Wengraf and Davila**

**Recommendation:** Pursuant to Berkeley's Policy for Naming and Renaming Public Facilities, refer to the City Manager and Public Works Commission to consider and return to the City Council a recommendation regarding the naming and renaming of four Berkeley Paths, as identified on the map at Attachment 1, in honor of the four women founders of the Berkeley Path Wanderers:

(a) Rename a path off of Keith Avenue near Shasta Road, currently named Eleanor Path, to "Eleanor Hall Gibson Path," after founder Eleanor Hall Gibson, who passed away in 2016;

(b) Name the following paths, subject to a 2/3 vote of the City Council as provided at Section 2(B) of the Policy, as follows: (i) The extension connector of Walnut Street through the UC complex between Hearst and Berkeley Way to be named "Ruth Armstrong Path" in honor of Ruth Armstrong (Moskovitz); (ii) The path parallel to the top of Solano Avenue running along Los Angeles Avenue up the tunnel slope towards the Marin Circle, to be named "Jacque Ensign Way" in honor of Jacque Ensign; and (iii) The path [TBD] to be named "Pat DeVito Path" in honor of Pat DeVito.

**Financial Implications:** See report

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

**Action:** Approved recommendation.

**26. Support for League of California Cities Resolution to CPUC**

**From: Councilmembers Wengraf, Droste and Harrison, and Mayor Arreguin**

**Recommendation:** Adopt a Resolution in support of the League of California Cities' Resolution to the California Public Utilities Commission (CPUC) requesting that the CPUC amend Rule 20A to allow for the addition of projects in Very High Fire Hazard Severity Zones to the list of eligibility criteria and to increase funding allocations for Rule 20A projects.

**Financial Implications:** None

Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

**Action:** Adopted Resolution No. 69,120–N.S.

**27. Support for ACA - 8: Elections: Voter Qualifications**

**From: Councilmember Robinson and Mayor Arreguin**

**Recommendation:** Adopt a resolution supporting ACA - 8, which would lower California's voting age to 17.

**Financial Implications:** None

Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

**Action:** Adopted Resolution No. 69,121–N.S.

## Council Consent Items

- 28. Budget Referral: RFP for a Freestanding Public Restroom Facility**  
**From: Councilmember Robinson**  
**Recommendation:** Refer to the budget process to set aside up to \$100,000 to issue an RFP for a freestanding, 24/7 public restroom facility in the Telegraph Business Improvement District.  
**Financial Implications:** See report  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170  
**Action:** Item 28 held over to October 15, 2019 Consent Calendar.
- 29. Referral: Telegraph Crosswalk Art Installations**  
**From: Councilmember Robinson**  
**Recommendation:** Refer to the Civic Arts Commission to develop and return to Council with a plan to:  
1. Create a public contest to design new crosswalk art on Telegraph at the intersections of Bancroft, Durant, Channing, Haste, and Dwight Streets.  
2. Build the winning design on the intersections.  
**Financial Implications:** See report  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170  
**Action:** Approved recommendation.
- 30. Russell St. Halloween Celebration: Relinquishment of Council Funds and Sponsorship**  
**From: Councilmember Droste**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount up to \$870 for the 2019 Russell St. Halloween Celebration with funds relinquished for this purpose from the discretionary Council Office Budget of Councilmember Droste and any other Councilmembers who would like to contribute. The Claremont Elmwood Neighborhood Association is the fiscal sponsor of the event.  
**Financial Implications:** See report  
Contact: Lori Droste, Councilmember, District 8, (510) 981-7180  
**Action:** Adopted Resolution No. 69,122–N.S. amended to add contributions from the following Councilmembers up to the amounts listed: Councilmember Davila - \$50; Councilmember Hahn - \$100; Councilmember Wengraf - \$100.

## Action Calendar – Public Hearings

### 31. ZAB Appeal: 2325 Sixth Street, Use Permit #ZP2017-0146

**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to approve Use Permit #ZP2017-0146 to alter a 6,000 sq. ft. parcel at 2325 Sixth Street by 1) raising the existing one-story, 1,348 sq. ft. single-family residence with an average height of 12 feet - 7 inches, to create a new, 3,330 sq. ft. two-story duplex, with an average height of 22 feet, 2) increasing the total number of bedrooms on the parcel from three to seven, and 4) constructing a two-story, 472 sq. ft. accessory building with an average height of 19 feet - 3 inches, located 1 foot - 6 inches from the rear and side yard property line to the south, that would consist of a two-car garage on the ground floor and a workshop on the second floor.

**Financial Implications:** None

Contact: Timothy Burroughs, Planning and Development, (510) 981-7400

**Public Testimony:** The Vice-Mayor opened the public hearing. 14 speakers. M/S/C (Davila/Kesarwani) to close the public hearing.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Droste; Noes – None; Abstain – None; Absent – Robinson, Arreguin.

**Action:** M/S/C (Davila/Kesarwani) to adopt Resolution No. 69,123–N.S. affirming the Zoning Adjustments Board (ZAB) decision to approve Use Permit #ZP2017-0146 to alter a 6,000 sq. ft. parcel at 2325 Sixth Street by 1) raising the existing one-story, 1,348 sq. ft. single-family residence with an average height of 12 feet - 7 inches, to create a new, 3,330 sq. ft. two-story duplex, with an average height of 22 feet, 2) increasing the total number of bedrooms on the parcel from three to seven, and 4) constructing a two-story, 472 sq. ft. accessory building with an average height of 19 feet - 3 inches, with the ground floor located 1 foot - 6 inches from the rear and side yard property line to the south and the second floor's wall set back five feet from the rear property line with no windows allowed on the wall facing the rear neighbor, that would consist of a two-car garage on the ground floor and a workshop on the second floor.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Droste; Noes – None; Abstain – None; Absent – Robinson, Arreguin.

**Action:** M/S/C (Davila/Wengraf) to hold over Item 4, Item 5, and Item 41 to October 15, 2019.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Droste; Noes – None; Abstain – None; Absent – Robinson, Arreguin.

Recess 9:20 p.m. – 9:37 p.m.



## Action Calendar – Old Business

32. **Referral Response: Issue a Request for Information to Explore Grant Writing Services from Specialized Municipal Grant-Writing Firms, and Report Back to Council** *(Continued from May 14, 2019)*

**From: City Manager**

Contact: Henry Oyekanmi, Finance, 981-7300

**Action:** Item 32 held over to October 15, 2019.

## Action Calendar – New Business

### 33. Resolution for the Allowance of 3404 King Street to Operate a Shelter for Homeless Youth

**From:** City Manager

**Recommendation:** Adopt a resolution that:

1. Authorizes the City Manager to negotiate a lease with Covenant House, for \$1 per year, for the purposes of becoming a lessee at 3404 King Street and establishing a public facility open to the homeless at that property.
2. Authorizes the City Manager to negotiate a management agreement with Covenant House for said facility; and
3. Authorizes the City Manager to amend Contract No. 31900239 with Covenant House to include the operation of a 12-bed transitional housing program and to increase the not-to-exceed amount of the contract by \$357,020 (the amount currently awarded to Fred Finch Youth Center for the Turning Point transitional housing program) to a new total of \$1,630,572.

**Financial Implications:** See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

**Action:** M/S/Failed (Wengraf/Kesarwani) to suspend the rules and extend the meeting to 11:20 p.m.

**Vote:** Ayes – Kesarwani, Harrison, Hahn, Wengraf, Droste; Noes – Davila, Bartlett; Abstain – None; Absent – Robinson, Arreguin.

**Action:** M/S/Carried (Wengraf/Kesarwani) to suspend the rules and extend the meeting to 11:15 p.m.

**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Droste; Noes – Davila; Abstain – None; Absent – Robinson, Arreguin.

**Action:** 32 speakers. M/S/C (Hahn/Wengraf) to adopt Resolution No. 69,124–N.S. amended to remove the authorizations in parts 1 and 2 of the City Manager's recommendation. In addition, the Council directs the City Manager to: 1) reach out to all possible facilities for placement of TAY services throughout the community, that have not already been explored, including churches, synagogues, community centers and other similar facilities, with an emphasis on areas that do not currently host homeless services and facilities; 2) organize four community meetings with Senior Staff including a representative of the City Manager's Office, HHCS, Covenant House and the Police Department to address various community concerns; and 3) to work with Covenant House, the Community and Fred Finch (if relevant) to consider possible program models that could allow the City to enter into a lease, and, if a path forward is found, to bring a proposed program model, security and other neighborhood provisions, and a proposed lease back to Council for consideration as a package.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Droste; Noes – None; Abstain – None; Absent – Robinson, Arreguin.

## Council Action Items

- 34. Referral: Develop a Bicycle Lane and Pedestrian Street Improvements Policy From: Councilmembers Robinson, Droste, Harrison, and Mayor Arreguin**  
**Recommendation:** Refer to the City Manager to develop a comprehensive ordinance governing a Bicycle Lane and Pedestrian Street Improvements Policy that would:
1. Require simultaneous implementation of recommendations in the City's Bicycle and Pedestrian Plans when City streets are repaved, if one or more of the following conditions are met: (a) Bicycle Plan recommendations can be implemented using quick-build strategies that accommodate transit operations. (b) Pedestrian Plan recommendations can be implemented using quick-build strategies that accommodate transit operations. (c) The Bicycle Plan recommends studying protected bike lanes as part of a Complete Street Corridor Study in the Tier 1 Priority list. (d) Improvements are necessary to comply with the Americans with Disabilities Act.
  2. Prioritize bikeways and Vision Zero high-fatality, high-collision streets under the five-year Paving Plan by requiring that 50 percent of the repaving budget go towards such streets until they meet a minimum surface standard established with input from the Public Works and Transportation Commissions.
  3. Encourage the use of quick builds by expediting quick-build projects under \$1 million. (a) "Quick-build" is defined as projects that a) require non-permanent features such as bollards/paint/bus boarding islands, b) make up less than 25 percent of the total repaving cost for that street segment, and c) can be a component of a Complete Street Corridor Study that includes evaluation after installation.
  4. Require staff to report progress back to Council every two years.
- Furthermore, refer to the City Manager to draft a revised version of the City's Complete Streets Policy that would clarify that the presence of an existing or planned bikeway parallel to an arterial does not exempt projects along said arterial from bicycle and micromobility improvements under the Policy.
- Financial Implications:** Staff time  
 Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170  
**Action:** Item 34 held over to October 15, 2019.

## Action Calendar – Old Business

- 35. Referral Response: Lava Mae Mobile Shower and Hygiene Services** *(Continued from September 10, 2019)*  
**From: City Manager**  
 Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400  
**Action:** Item 35 held over to October 15, 2019.

## Action Calendar – Old Business

### 36a. **Health Study to be Conducted by Division of Public Health to Gather Data on Health Conditions, Health Disparities and Mortality Rates of Berkeley's Homeless** *(Continued from September 10, 2019)*

#### **From: Homeless Commission**

**Recommendation:** The Homeless Commission recommends that Council direct that the City Division of Public Health conduct a study gathering data on health conditions, health disparities and mortality rates of Berkeley's homeless for the last five years.

Such recommendation includes compiling information on Berkeley's homeless including persons living in shelters, in vehicles, on the streets, and any other location not intended for human habitation and who move between these settings. Such study shall include data on specific health conditions and make a comparative analysis between the homeless and Berkeley's general population and shall include demographics such as race, age, gender and known disability. Such study shall include how long the homeless person has lived on the streets and/or in shelters and attempt to track back the nature of their various residences for five years as is feasible.

Data for mortality rates among Berkeley's homeless shall also be gathered for the last five years. The mortality rates shall be examined for persons living in shelters, in vehicles, on the streets and any other location not intended for human habitation. The cause of death shall be identified and demographics such as race, age, gender and known disability compiled. Tracking the housing status of the persons, for the last five years, shall be identified as is feasible. If feasible, the length of residence in Berkeley shall be identified.

A comparative analysis with the general population shall be made. To the extent feasible and within legal constraints, whether or not the deceased individual was under the care of a medical provider shall be identified. All personal information should be redacted so as to comply with federal, state and local laws.

Recommendations shall be made to improve the health conditions of the homeless and decrease the mortality rates of homeless persons. Recommendations, within the City Division of Public Health's purview shall be made initially by them and return to Council where further recommendations can be made. Council shall provide the opportunity for the Homeless Commission, any other relevant commission, and the public to weigh in on recommendations following the release of the data/study.

**Financial Implications:** See report

Contact: Peter Radu, Commission Secretary, (510) 981-5400

## Action Calendar – Old Business

**36b. Companion Report: Health Study to be Conducted by the Public Health Division to Gather Data on Health Conditions, Health Disparities and Mortality Rates of Berkeley's homeless** *(Continued from September 10, 2019)*

**From: City Manager**

**Recommendation:** The Homeless Commission's recommendation to conduct a study on the health conditions, disparities, and mortality rates of Berkeley's homeless population addresses important issues within the City. Staff greatly appreciate the Commission's continued advocacy for the unhoused and their suggestions to gather as much relevant information as possible. Therefore, staff recommend asking Alameda County to explore the feasibility of recording homelessness as a data point in death records and/or making investments to begin tracking this information locally.

**Financial Implications:** None

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

**Action:** No action taken on Item 36a. Item 36b moved to Consent Calendar as amended below:

*Refer to staff to reach out to the UC Berkeley School of Public Health, the Goldman School at UC, and other programs at UC or Berkeley Community College, to determine if there are grad students to study data and health conditions of homeless people in our community.*

*To refer to staff to continue to improve the health services and access to healthcare for homeless individuals.*

*Send a letter to Alameda County requesting data on deaths of identified homeless individuals.*

*Contact Alameda County request that they explore the feasibility of recording homelessness as a data point in death records and/or making investments to begin tracking this information locally.*

**37a. Utilization of City-Owned Property at 1281 University Avenue to House up to 8-10 RV Dwellers** *(Continued from September 10, 2019)*

**From: Homeless Commission**

**Recommendation:** The Homeless Commission recommends that the currently unused City-owned property at 1281 University Avenue be used to house, on an interim basis, up to 8-10 RV dwellers, or as many as the property can safely accommodate, selected by the City of Berkeley. The RV dwellers would be selected by the City of Berkeley based on the strength of their ties to the community such as employment in Berkeley, attending school in Berkeley and families with children in Berkeley schools.

**Financial Implications:** See report

Contact: Peter Radu, Commission Secretary, (510) 981-5400

**Action:** Item 37a moved to Consent Calendar for the purpose of taking no action.

## Action Calendar – Old Business

- 37b. Companion Report: Utilization of City-Owned Property at 1281 University Avenue to House up to 8 - 10 RV Dwellers** *(Continued from September 10, 2019)*  
**From: City Manager**  
**Recommendation:** Refer to the City Manager to conduct a feasibility analysis of 1281 University Avenue as an interim site to host Recreational Vehicle (RV) dwellers.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400  
**Action:** Item 37b held over to November 12, 2019.
- 38. Repealing and Reenacting BMC Chapter 13.104, Wage Theft Prevention** *(Continued from September 10, 2019)*  
**From: Mayor Arreguin and Councilmember Harrison**  
**Recommendation:** Adopt second reading of Ordinance No. 7,668-N.S. repealing and reenacting BMC Chapter 13.104, Wage Theft Prevention to improve enforcement of the ordinance by requiring a signed acknowledgement of ordinance requirements and signed attestation at completion of the project.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** Staff time  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Councilmember Droste added as a co-sponsor. Item 38 held over to October 15, 2019.

## Information Reports

- 39. City Council Short Term Referral Process – Monthly Update**  
**From: City Manager**  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Received and filed.
- 40. Deaccession of Berkeley Big People**  
**From: City Manager**  
Contact: Jordan Klein, Economic Development, (510) 981-7530  
**Action:** Moved to Action Calendar. Item 40 held over to October 15, 2019.
- 41. Pathways STAIR Center: First Year Data Evaluation and Results-Based Accountability Dashboard**  
**From: City Manager**  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400  
**Action:** Moved to Action Calendar. Item held over to October 15, 2019.

## Information Reports

42. **2019 Housing Advisory Commission Work Plan**  
**From: Housing Advisory Commission**  
Contact: Mike Uberti, Commission Secretary, (510) 981-7400  
**Action:** Received and filed.
43. **Planning Commission Workplan 2019-2020**  
**From: Planning Commission**  
Contact: Alene Pearson, Commission Secretary, (510) 981-7400  
**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda - 1 speaker.**

## Adjournment

Adjourned at 11:15 p.m.

I hereby certify that the forgoing is a true and correct record of the regular meeting of September 24, 2019 as approved by the Berkeley City Council.

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Mark Numainville, City Clerk

## Communications

### Item #4: IKE Smart City Kiosk Locations, Phase One

1. Andy Kellogg, on behalf of the Lorin Business Association

### Item #31: ZAB Appeal: 2325 Sixth Street

2. Jenkins Family, owners of 2325 Sixth Street
3. Mary Beth Thomsen
4. Toni Mester
5. Bacilia Macias Architecture

### Item #40: Deaccession of Berkeley Big People

6. Chuck Cornwall
7. Matthew Passmore, Chair of the Public Art Subcommittee

### ZAB Appeal: 0 Euclid – Verizon Cell Tower

8. Paul Teicholz
9. Bronwyn Hall
10. Angelina DeAntonis

### Youth Spirit Works – Tiny House

11. Sally Hindman, on behalf of Youth Spirit Artworks

**Aquatic Park – E Coli**

12. Barbara Gilbert

13. Eric Friedman

**Public Safety Cameras**

14. David Lerman

**ADU Laws**

15. Paul Rubin

**RV's**

16. Cymbre Potter

17. Eric Friedman

**Opportunity Zone**

18. Barbara Gilbert

**Berkeley Housing Cooperative Village**

19. Tom Minogue Hastings

**5G**

20. Phoebe Anne Sorgen (2)

21. Stephanie Thomas

22. 19 form letters

**City Vehicle Emissions Audit**

23. Dave Margulius

**Marijuana Use**

24. Lynn Silver, on behalf of the public Health Institute

**Adeline Plan**

25. South Berkeley Now!

**Housing for a Diverse, Equitable and Creative Berkeley**

26. Abigail Gutmann-Gonzalez and Keith Brower Brown, on behalf of the East Bay Democratic Socialists of America

**Berkeley Police Department Bicycle Enforcement Policies**

27. Liza Lutzker, Ben Gerhardstein, Ben Paulos and Robert Prinz, on behalf of Walk Bike Berkeley and Bike East Bay

**Homelessness**

28. Juli Dickey



- 29. Diana Bohn
- 30. Erwan Illian

**Facial Recognition**

- 31. Diana Bohn
- 32. Carol Denney

**Non-Emergency Berkeley Police Department Phone Line**

- 33. David Lerman

**Smoking in Multi-Unit Housing**

- 34. Carlos Rivas

**Supplemental Communications and Reports 1**

**Item #4: IKE Smart City Kiosk Locations, Phase One**

- 35. Steve Jaffe, on behalf of IKI Smart City
- 36. Matthew Jervis, on behalf of the Downtown Berkeley Association
- 37. Stuart Baker, on behalf of the Telegraph Business Improvement Association
- 38. Andy Kellogg, on behalf of the Lorin Business Association

**Item #6: Revisions to the Berkeley Revolving Loan Fund Administrative Plan**

- 39. Sara Stevens on behalf of the Sustainable Economies Law Center

**Item #14: Contract: Mar Con Builders, Inc. for Live Oak Community Center Seismic Upgrade Project**

- 40. Revised material, submitted by Parks, Recreation, and Waterfront Department

**Item #28: Budget Referral: RFP for a Freestanding Public Restroom Facility**

- 41. Stuart Baker, on behalf of the Telegraph Business Improvement Association

**Item #29: Referral: Telegraph Crosswalk Art Installations**

- 42. Stuart Baker, on behalf of the Telegraph Business Improvement Association

**Item #33: Resolution for the Allowance of 3404 King Street to Operate a Shelter for Homeless Youth**

- 43. Susan Ayasse Grand

**Item #34: Referral: Develop a Bicycle Lane and Pedestrian Street Improvement Policy**

- 44. John Rice
- 45. Diane Rice
- 46. Gus Dedo
- 47. Sabina McMurty

**Item #35: Referral Response: Lava Mae Mobile Shower and Hygiene Services**

- 48. Maris Arnold

**Item #40: Deaccession of Berkeley Big People**

49. Adina Polen
50. Richard Whitlock
51. Karen Eichler
52. Catherine Bathrick
53. Liz Hoadley
54. Gary Mattern
55. Sue
56. Charlie Ruppert
57. Marsha Gale
58. Chuck Cornwall
59. Martha Wold Cornwall
60. Lois Tucker
61. Barbara Tien
62. Matthew G. Passmore

## **Supplemental Communications and Reports 2**

### **Item #26: Support for League of California Cities Resolution to CPUC**

63. 3 form letters in support of
64. Cynthia Larson
  65. Bill Pottinger
  66. Scott Wren
  67. Alison Lingo
  68. Kori Kody
  69. Martin Izquierdo
  70. Charlotte and Ken Gray
  71. Liliana Cardile and Stefano Schivon
  72. Phyllis Steiber

### **Item #31: ZAB Appeal: 2325 Sixth Street**

73. Mary Beth Thomsen
74. Joel Mark

### **Item #33: Resolution for the Allowance of 3403 Kings Street to Operate a Shelter for Homeless Youth**

75. Supplemental material, submitted by HHCS
76. Thomas Alexander and Elisabeth Jewel, on behalf of the Fred Finch Youth Center
77. Emily Modde and John Cornwell

### **Item #34: Referral: Develop a Bicycle Lane and Pedestrian Street Improvement Policy**

78. Julie Bussgang

### **Item #40: Deaccession of Berkeley Big People**

79. Marguerite Lee
80. Julia Goodman

### **Item #34: Referral: Develop a Bicycle Lane and Pedestrian Street Improvement Policy**

81. 456 Communications submitted via Berkeley Considers, includes summary information

### Supplemental Communications and Reports 3

**Urgency Item: Purchase Agreement with Pierce Manufacturing, Inc. and Contract No. 078804-1 (8068) Amendment: Banc of America Public Capital Corp. for Master Equipment Lease/Purchase Agreement for four Fire Engines and one 107' Tiller (Ladder Truck)**

82. Time Critical Item, submitted by Public Works

**Item #26: Support for League of California Cities Resolution to CPUC**

83. Patricia Reedy

84. Maria Riddle

85. Jan Novie

86. David Long

87. Christina Crowley

88. Karen Ackerman

89. Tim Campbell

90. Pam Speich

91. Lauren Dundes

**Item #28: Budget Referral: RFP for a Freestanding Public Restroom Facility**

92. Varsha Sarveshwar, on behalf of the Associated Students University of California

**Item #29: Referral: Telegraph Crosswalk Art Installations**

93. Varsha Sarveshwar, on behalf of the Associated Students University of California

**Item #31: ZAB Appeal: 2325 Sixth Street, Use Permit #ZP2017-0146**

94. Presentation, submitted by the Planning Department

95. Presentation, submitted by the Jenkins Family - Applicant

96. Shirley Dean (2)

97. Adria Angelo

98. Toni Mester

**Item #33: Resolution for the Allowance of 3404 King Street to Operate a Shelter for Homeless Youth**

99. Pedro Alvarez, Jr. and Kevin McNulty

100. Emily Modde

**Item #37a: Utilization of City-Owned Property at 1281 University Avenue to House up to 8-10 RV Dwellers**

101. David Lerman

102. Lillian Lerman

**Ceremonial Matters #4 (Indigenous People's Day)**

103. Moni Law

104. The Berkeley Indigenous People's Day Committee

**City Manager Comments**

105. Submitted by the City Manager's Office



Office of the City Manager

CONSENT CALENDAR  
October 29, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted By: Mark Numainville, City Clerk  
 Subject: City Council Rules of Procedure and Order Revisions

RECOMMENDATION

Adopt a Resolution revising the City Council Rules of Procedure and Order to integrate the previously adopted regulations for policy committees and make associated changes to other sections; update outdated references and practices; conform to the Open Government Ordinance; make other technical corrections; and rescinding any preceding amendatory resolutions.

POLICY COMMITTEE RECOMMENDATION

On September 16, 2019, the Agenda & Rules Committee adopted the following action: M/S/C (Harrison/Wengraf) to send the item to the City Council with a Positive Recommendation on the proposed amendments to the Rules of Procedure including the changes and edits made at the meeting on pages 10, 11, 14, 20, 21, 22, and 23; and to change “Co-Author” to “Co-Sponsor” throughout; add “Mayor” when using term “Councilmember;” and add a definition for “Primary Author.” The Committee also requested that a standing item be added to the agenda for discussion of further changes to the Rules of Procedure. Vote: All Ayes.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

This report and resolution are a response to the need to update the Rules of Procedure (ROP) to incorporate the regulations adopted to govern City Council Policy Committees in Resolution 68,726-N.S. adopted on December 11, 2018. The policy committee resolution was not adopted as an amendment to the ROP in December 2018. In addition, with six months of policy committee meetings completed, the need for amendments to the original policy committee regulations have surfaced. The amendments related to policy committees have ripples throughout the document and required changes to the sections for the Agenda Committee and the legislative process.

Some of the amendments related to policy committees are related to the participation of councilmembers. These amendments are being proposed due to a re-evaluation of the

Brown Act's applicability to the policy committee process. After thorough review by the City Attorney's Office, the City Clerk Department, and the Chair of the League of California Cities Brown Act Committee, staff has concluded that new rules limiting participation by councilmembers are required. These changes are located on pages 20-21 of Attachment 2.

Further amendments to the policy committee rules are related to the authority of the Agenda & Rules Committee, calling special meetings of policy committees, responsibilities for shepherding legislation through the committee process, closing loopholes that would delay council items, and the rules for expedited review.

With the significant amendments needed to incorporate policy committees, staff recommends using this update to make other amendments related to the items below.

- Schedule for revised and supplemental materials per the Open Government Ordinance
- Outdated language related to agenda sections and headings
- Changes to the procedure for adding co-sponsors to agenda items
- Clarification regarding public comment on appeals
- Parliamentary clarifications to adhere to Roberts Rules of Order
- Updates related to moving Council meetings to the BUSD Board Room
- Other minor modifications and technical corrections

A fully annotated version of the revised document with all amendments in track changes is in Attachment 2.

#### BACKGROUND

The City Council Rules of Procedure and Order governs the duties of the Council, the conduct of meetings, the agenda, procedural matters and facilities. The rules have been amended as necessary over time to improve the function of the Agenda Committee and the conduct of City Council meetings.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

#### RATIONALE FOR RECOMMENDATION

This update is primarily to incorporate the changes regarding policy committees that were adopted separately in Resolution 68,726-N.S. regarding council policy committees. Other conforming changes and technical updates are also included in this revision.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1: Resolution

Exhibit A: City Council Rules of Procedure and Order (Clean Version)

2: Rules of Procedure with Track Changes

RESOLUTION NO. ##,###-N.S.

RE-ADOPTING THE CITY COUNCIL RULES OF PROCEDURE

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Council Rules of Procedure and Order attached hereto as Exhibit A shall govern all proceedings of the City Council therein described, subject to the exception and deviations provided for in such rules.

BE IT FURTHER RESOLVED that violation of these rules shall not be construed as a penal offense, except as provided for by the adopted Rules of Procedure.

BE IT FURTHER RESOLVED that this update is primarily to incorporate the changes regarding policy committees that were adopted separately in Resolution 68,726-N.S. regarding council policy committees.

BE IT FURTHER RESOLVED that all preceding amendatory resolutions, including Resolution No. 68,753-N.S., are hereby rescinded.

Exhibit A: City Council Rules of Procedure and Order



# The Berkeley City Council Rules of Procedure and Order

Adopted by Resolution No. ~~##,###~~–N.S.  
Effective **October 29, 2019**

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**I. DUTIES****A. Duties of Mayor**

The Mayor shall preside at the meetings of the Council and shall preserve strict order and decorum at all regular and special meetings of the Council. The Mayor shall state every question coming before the Council, announce the decision of the Council on all subjects, and decide all questions of order, subject, however, to an appeal to the Council, in which event a majority vote of the Council shall govern and conclusively determine such question of order. In the Mayor's absence, the Vice President of the Council (hereafter referred to as the Vice-Mayor) shall preside.

**B. Duties of Councilmembers**

Promptly at the hour set by law on the date of each regular meeting, the members of the Council shall take their regular stations in the Council Chambers and the business of the Council shall be taken up for consideration and disposition.

**C. Motions to be Stated by Chair**

When a motion is made, it may be stated by the Chair or the City Clerk before debate.

**D. Decorum by Councilmembers**

While the Council is in session, the City Council will practice civility and decorum in their discussions and debate. Councilmembers will value each other's time and will preserve order and decorum. A member shall neither, by conversation or otherwise, delay or interrupt the proceedings of the Council, use personal, impertinent or slanderous remarks, nor disturb any other member while that member is speaking or refuse to obey the orders of the presiding officer or the Council, except as otherwise provided herein.

All Councilmembers have the opportunity to speak and agree to disagree but no Councilmember shall speak twice on any given subject unless all other Councilmembers have been given the opportunity to speak. The Presiding Officer may set limits on the speaking time allotted to Councilmembers during Council discussion.

The presiding officer has the affirmative duty to maintain order. The City Council will honor the role of the presiding officer in maintaining order. If a Councilmember believes the presiding officer is not maintaining order, the Councilmember may move that the Vice-Mayor, or another Councilmember if the Vice-Mayor is acting as the presiding officer at the time, enforce the rules of decorum and otherwise maintain order. If that motion receives a second and is approved by a majority of the Council, the Vice-Mayor, or other designated Councilmember, shall enforce the rules of decorum and maintain order.

**E. Voting Disqualification**

No member of the Council who is disqualified shall vote upon the matter on which the member is disqualified. Any member shall openly state or have the presiding officer announce the fact and nature of such disqualification in open meeting, and shall not be subject to further inquiry. Where no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the member affected, be

decided by the other members of the Council, by motion, and such decision shall determine such member's right and obligation to vote. A member who is disqualified by conflict of interest in any matter shall not remain in the Chamber during the debate and vote on such matter, but shall request and be given the presiding officer's permission to recuse themselves. Any member having a "remote interest" in any matter as provided in Government Code shall divulge the same before voting.

**F. Requests for Technical Assistance and/or Reports**

A majority vote of the Council shall be required to direct staff to provide technical assistance, develop a report, initiate staff research, or respond to requests for information or service generated by an individual council member.

**II. MEETINGS****A. Call to Order - Presiding Officer**

The Mayor, or in the Mayor's absence, the Vice Mayor, shall take the chair precisely at the hour appointed by the meeting and shall immediately call the Council to order. Upon the arrival of the Mayor, the Vice Mayor shall immediately relinquish the chair. In the absence of the two officers specified in this section, the Councilmember present with the longest period of Council service shall preside.

**B. Roll Call**

Before the Council shall proceed with the business of the Council, the City Clerk shall call the roll of the members and the names of those present shall be entered in the minutes. The later arrival of any absentee shall also be entered in the minutes.

**C. Quorum Call**

During the course of the meeting, should the Chair note a Council quorum is lacking, the Chair shall call this fact to the attention of the City Clerk. The City Clerk shall issue a quorum call. If a quorum has not been restored within two minutes of a quorum call, the meeting shall be deemed automatically adjourned.

**D. Council Meeting Conduct of Business**

The agenda for the regular business meetings shall include the following: Ceremonial Items (including comments from the City Auditor if requested); Comments from the City Manager; Comments from the Public; Consent Calendar; Action Calendar (Appeals, Public Hearings, Continued Business, Old Business, New Business); Information Reports; and Communication from the Public. Presentations and workshops may be included as part of the Action Calendar. The Chair will determine the order in which the item(s) will be heard with the consent of Council.

Upon request by the Mayor or any Councilmember, any item may be moved from the Consent Calendar or Information Calendar to the Action Calendar. Unless there is an objection by the Mayor or any Councilmember, the Council may also move an item from the Action Calendar to the Consent Calendar.

A public hearing that is not expected to be lengthy may be placed on the agenda for a regular business meeting. When a public hearing is expected to be contentious and lengthy and/or the Council's regular meeting schedule is heavily booked, the Agenda & Rules Committee, in conjunction with the staff, will schedule a special meeting exclusively for the public hearing. No other matters shall be placed on the agenda for the special meeting. All public comment will be considered as part of the public hearing and no separate time will be set aside for public comment not related to the public hearing at this meeting.

Except at meetings at which the budget is to be adopted, no public hearing may commence later than 10:00 p.m. unless there is a legal necessity to hold the hearing or make a decision at that meeting or the City Council determines by a two-thirds vote that there is a fiscal necessity to hold the hearing.

**E. Adjournment**

1. No Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items; and any motion to extend the meeting beyond 11:00 p.m. shall include a list of specific agenda items to be covered and shall specify in which order these items shall be handled.
2. Any items not completed at a regularly scheduled Council meeting may be continued to an Adjourned Regular Meeting by a two-thirds majority vote of the Council.

**F. Unfinished Business**

Any items not completed by formal action of the Council, and any items not postponed to a date certain, shall be considered Unfinished Business. All Unfinished Business shall be referred to the Agenda & Rules Committee for scheduling for a Council meeting that occurs within 60 days from the date the item last appeared on a Council agenda. The 60 day period is tolled during a Council recess.

**G. City Council Schedule and Recess Periods**

Pursuant to the Open Government Ordinance, the City Council shall hold a minimum of twenty-four (24) meetings, or the amount needed to conduct City business in a timely manner, whichever is greater, each calendar year.

Regular meetings of the City Council shall be held generally two to three Tuesdays of each month; the schedule to be established annually by Council resolution taking into consideration holidays and election dates.

Regular City Council meetings shall begin no later than 6:00 p.m.

A recess period is defined as a period of time longer than 21 days without a regular meeting of the Council.

When a recess period occurs, the City Manager is authorized to take such ministerial actions for matters of operational urgency as would normally be taken by the City Council during the period of recess except for those duties specifically reserved to the Council by the Charter, and including such emergency actions as are necessary for the immediate preservation of the public peace, health or safety; the authority to extend throughout the period of time established by the City Council for the period of recess.

The City Manager shall have the aforementioned authority beginning the day after the Agenda & Rules Committee meeting for the last regular meeting before a Council recess and this authority shall extend up to the date of the Agenda & Rules Committee meeting for the first regular meeting after the Council recess.

The City Manager shall make a full and complete report to the City Council at its first regularly scheduled meeting following the period of recess of actions taken by the City Manager pursuant to this section, at which time the City Council may make such findings as may be required and confirm said actions of the City Manager.

**H. Pledge of Allegiance to the Flag**

At the first meeting of each year following the August recess and at any subsequent meeting if specifically requested before the meeting by any member of the Council in order to commemorate an occasion of national significance, the first item on the Ceremonial Calendar will be the Pledge of Allegiance.

**I. Ad Hoc Subcommittees**

From time to time the Council or the Mayor may appoint several of its members but fewer than the existing quorum of the present body to serve as an ad hoc subcommittee. Only Councilmembers may be members of the ad hoc subcommittee; however, the subcommittee shall seek input and advice from residents, related commissions, and other groups. Ad Hoc Subcommittees must be reviewed annually by the Council to determine if the subcommittee is to continue.

Upon creation of an ad hoc subcommittee, the Council shall allow it to operate with the following parameters:

1. A specific charge or outline of responsibilities shall be established by the Council.
2. A target date must be established for a report back to the Council.
3. Maximum life of the subcommittee shall be one year, with annual review and possible extension by the Council.

Subcommittees shall conduct their meetings in locations that are open to the public and meet accessibility requirements under the Americans with Disabilities Act. Meetings may be held at privately owned facilities provided that the location is open to all that wish to attend and that there is no requirement for purchase to attend. Agendas for subcommittee meetings must be posted in the same manner as the agendas for regular Council meetings except that subcommittee agendas may be posted with 24-hour notice. The public will be permitted to comment on agenda items but public comments may be limited to one minute if deemed necessary by the Committee Chair. Agendas and minutes of the meetings must be maintained and made available upon request.

Ad hoc subcommittees will be staffed by City Council legislative staff. As part of the ad hoc subcommittee process, City staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item(s) under consideration. Staff analysis at ad hoc subcommittees is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

Subcommittees must be comprised of at least two members. If only two members are appointed, then both must be present in order for the subcommittee meeting to be held. In other words, the quorum for a two-member subcommittee is always two.

Ad hoc subcommittees may convene a closed session meeting pursuant to the conditions and regulations imposed by the Brown Act.



### III. AGENDA

#### A. Declaration of Policy

No ordinance, resolution, or item of business shall be introduced, discussed or acted upon before the Council at its meeting without prior thereto its having been published on the agenda of the meeting and posted in accordance with Section III.D.2. Exceptions to this rule are limited to circumstances listed in Section III.D.4.b and items continued from a previous meeting and published on a revised agenda.

#### B. Definitions

For purposes of this section, the terms listed herein shall be defined as follows:

1. "Agenda Item" means an item placed on the agenda (on either the Consent Calendar or as a Report For Action) for a vote of the Council by the Mayor or any Councilmember, the City Manager, the Auditor, or any board/commission/committee created by the City Council, or any Report For Information which may be acted upon if the Mayor or a Councilmember so requests. For purposes of this section, appeals shall be considered action items. All information from the City Manager concerning any item to be acted upon by the Council shall be submitted as a report on the agenda and not as an off-agenda memorandum and shall be available for public review, except to the extent such report is privileged and thus confidential such as an attorney client communication concerning a litigation matter. Council agenda items are limited to a maximum of three Co-Sponsors (in addition to the Primary Author). Co-Sponsors to Council reports may only be added in the following manner:
  - In the original item as submitted by the Primary Author
  - In a revised item submitted by the Primary Author at the Agenda & Rules Committee
  - By verbal request of the Primary Author at the Agenda & Rules Committee
  - In a revised item submitted by the Primary Author in Supplemental Reports and Communications Packet #1 or #2
  - By verbal or written request of the Mayor or any Councilmember at the Policy Committee meeting or meeting of the full council at which the item is considered

Agenda items shall contain all relevant documentation, including the information listed below.

- a) A descriptive title that adequately informs the public of the subject matter and general nature of the item or report;
- b) Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
- c) Recommendation of the report author that describes the action to be taken on the item, if applicable;

- d) Fiscal impacts of the recommendation;
  - e) A description of the current situation and its effects;
  - f) Background information as needed;
  - g) Rationale for recommendation;
  - h) Alternative actions considered;
  - i) For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
  - j) Person or persons to contact for further information, with telephone number.
  - k) Additional information and analysis as required. It is recommended that reports include the recommended points of analysis in the Council Report Guidelines in Appendix B.
2. "Primary Author" means the Mayor or Councilmember that initiated, authored, and submitted a council agenda item.
  3. "Co-Sponsor" means the Mayor or other Councilmembers designated by the Primary Author to be co-sponsor of the council agenda item.
  4. "Agenda" means the compilation of the descriptive titles of agenda items submitted to the City Clerk, arranged in the sequence established in Section III.E hereof.
  5. "Packet" means the agenda plus all its corresponding duplicated agenda items.
  6. "Emergency Matter" arises when prompt action is necessary due to the disruption or threatened disruption of public facilities and a majority of the Council determines that:
    - a) A work stoppage or other activity which severely impairs public health, safety, or both;
    - b) A crippling disaster, which severely impairs public health, safety or both. Notice of the Council's proposed consideration of any such emergency matter shall be given in the manner required by law for such an emergency pursuant to Government Code Section 54956.5.
  7. "Continued Business" Items carried over from a prior agenda of a meeting occurring less than 11 days earlier.
  8. "Old Business" Items carried over from a prior agenda of a meeting occurring more than 11 days earlier.

## C. Procedure for Bringing Matters Before City Council

### 1. Persons Who Can Place Matters on the Agenda.

Matters may be placed on the agenda by the Mayor or any Councilmember, the City Manager, the Auditor, or any board/commission/committee created by the City Council. All items, other than board and commission items shall be subject to review by the Agenda & Rules Committee, which shall be a standing committee of the City Council.

The Agenda & Rules Committee shall meet 15 days prior to each City Council meeting and shall approve the agenda of that City Council meeting. Pursuant to BMC Section 1.04.080, if the 15<sup>th</sup> day prior to the Council meeting falls on a holiday, the Committee will meet the next business day. The Agenda & Rules Committee packet, including a draft agenda and Councilmember, Auditor, and Commission reports shall be distributed by 5:00 p.m. 4 days before the Agenda & Rules Committee meeting.

The Agenda & Rules Committee shall have the powers set forth below.

- a) **Items Authored by the Mayor, a Councilmember, or the Auditor.** As to items authored by the Mayor, a Councilmember, or the Auditor, the Agenda & Rules Committee shall review the item and may recommend that the matter be referred to a commission, to the City Manager, a Policy Committee, or back to the author for adherence to required form or for additional analysis as required in Section III.B.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

The author of a “referred” item must inform the City Clerk within 24 hours of the adjournment of the Agenda & Rules Committee meeting whether they prefer to: 1) hold the item for a future meeting pending modifications as suggested by the Committee; 2) have the item appear on the Council agenda under consideration as originally submitted; 3) pull the item completely; or 4) re-submit the item with revisions as requested by the Agenda & Rules Committee within 24 hours of the adjournment of the Agenda & Rules Committee meeting for the Council agenda under consideration. Option 2 is not available for items eligible to be referred to a Policy Committee.

In the event that the City Clerk does not receive guidance from the author of the referred item within 24 hours of the Agenda & Rules Committee’s adjournment, the recommendation of the Agenda & Rules Committee will take effect.

Items held for a future meeting to allow for modifications will be placed on the next available Council meeting agenda at the time that the revised version is submitted to the City Clerk.

- b) **Items Authored by the City Manager.** The Agenda & Rules Committee shall review agenda descriptions of items authored by the City Manager. The Committee can recommend that the matter be referred to a commission or back to the City Manager for adherence to required form, additional analysis as required in Section III.B.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

If the City Manager determines that the matter should proceed notwithstanding the Agenda & Rules Committee's action, it will be placed on the agenda as directed by the Manager. All City Manager items placed on the Council agenda against the recommendation of the Agenda & Rules Committee will automatically be placed on the Action Calendar.

- c) **Items Authored by Boards and Commissions.** Council items submitted by boards and commissions are subject to City Manager review and must follow procedures and timelines for submittal of reports as described in the Commissioners' Manual. The content of commission items is not subject to review by the Agenda & Rules Committee.
- i) For a commission item that does not require a companion report from the City Manager, the Agenda & Rules Committee may act on an agendaized commission report in the following manner:
1. Move a commission report from the Consent Calendar to the Action Calendar or from the Action Calendar to the Consent Calendar.
  2. Re-schedule the commission report to appear on one of the next three regular Council meeting agendas that occur after the regular meeting under consideration. Commission reports submitted in response to a Council referral shall receive higher priority for scheduling.
  3. Allow the item to proceed as submitted.
- ii) For any commission report that requires a companion report, the Agenda & Rules Committee may schedule the item on a Council agenda. The Committee must schedule the the commission item for a meeting occurring not sooner than 60 days and not later than 120 days from the date of the meeting under consideration by the Agenda & Rules Committee. A commission report submitted with a complete companion report may be scheduled pursuant to subparagraph c.i. above.
- d) The Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in Chapter III, Section E.

2. **Scheduling Public Hearings Mandated by State, Federal, or Local Statute.**  
The City Clerk may schedule a public hearing at an available time and date in those cases where State, Federal or local statute mandates the City Council hold a public hearing.
3. **Submission of Agenda Items.**
  - a) **City Manager Items.** Except for Continued Business and Old Business, as a condition to placing an item on the agenda, agenda items from departments, including agenda items from commissions, shall be furnished to the City Clerk at a time established by the City Manager.
  - b) **Council and Auditor Items.** The deadline for reports submitted by the Auditor, Mayor and City Council is 5:00 p.m. on Monday, 22 days before each Council meeting.
  - c) **Time Critical Items.** A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or Councilmember is received by the City Clerk after established deadlines and is not included on the Agenda & Rules Committee's published agenda.

The author of the report shall bring any reports submitted as Time Critical to the meeting of the Agenda & Rules Committee. Time Critical items must be accompanied by complete reports and statements of financial implications. If the Agenda & Rules Committee finds the matter to meet the definition of Time Critical, the Agenda & Rules Committee may place the matter on the Agenda on either the Consent or Action Calendar.

- d) The City Clerk may not accept any agenda item after the adjournment of the Agenda & Rules Committee meeting, except for items carried over by the City Council from a prior City Council meeting occurring less than 11 days earlier, which may include supplemental or revised reports, and reports concerning actions taken by boards and commissions that are required by law or ordinance to be presented to the Council within a deadline that does not permit compliance with the agenda timelines in BMC Chapter 2.06 or these rules.
4. **Submission of Supplemental and Revised Agenda Material.**  
Berkeley Municipal Code Section 2.06.070 allows for the submission of supplemental and revised agenda material. Supplemental and revised material cannot be substantially new or only tangentially related to an agenda item. Supplemental material must be specifically related to the item in the Agenda Packet. Revised material should be presented as revised versions of the report or item printed in the Agenda Packet. Supplemental and revised material may be submitted for consideration as follows:
    - a) Supplemental and revised agenda material shall be submitted to the City Clerk no later than 5:00 p.m. seven calendar days prior to the City Council

meeting at which it is to be considered. Supplemental and revised items that are received by the deadline shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. five calendar days prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Councilmember evaluation.

- b) Supplemental and revised agenda material submitted to the City Clerk after 5:00 p.m. seven days before the meeting and no later than 12:00 p.m. one day prior to the City Council meeting at which it is to be considered shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. one day prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Council evaluation.
- c) After 12:00 p.m. one calendar day prior to the meeting, supplemental or revised reports may be submitted for consideration by delivering a minimum of 42 copies of the supplemental/revised material to the City Clerk for distribution at the meeting. Each copy must be accompanied by a completed supplemental/revised material cover page, using the form provided by the City Clerk. Revised reports must reflect a comparison with the original item using track changes formatting. The material may be considered only if the City Council, by a two-thirds roll call vote, makes a factual determination that the good of the City clearly outweighs the lack of time for citizen review or City Councilmember evaluation of the material. Supplemental and revised material must be distributed and a factual determination made prior to the commencement of public comment on the agenda item in order for the material to be considered.

#### **5. Scheduling a Presentation.**

Presentations from staff are either submitted as an Agenda Item or are requested by the City Manager. Presentations from outside agencies and the public are coordinated with the Mayor's Office. The Agenda & Rules Committee may adjust the schedule of presentations as needed to best manage the Council Agenda.

### **D. Packet Preparation and Posting**

#### **1. Preparation of the Packet.**

Not later than the thirteenth day prior to said meeting, the City Clerk shall prepare the packet, which shall include the agenda plus all its corresponding duplicated agenda items. No item shall be considered if not included in the packet, except as provided for in Section III.C.4 and Section III.D.4.

**2. Distribution and Posting of Agenda.**

- a) The City Clerk shall post each agenda of the City Council regular meeting no later than 11 days prior to the meeting and shall post each agenda of a special meeting at least 24 hours in advance of the meeting in the official bulletin board. The City Clerk shall maintain an affidavit indicating the location, date and time of posting each agenda.
- b) The City Clerk shall also post agendas and annotated agendas of all City Council meetings and notices of public hearings on the City's website.
- c) No later than 11 days prior to a regular meeting, copies of the agenda shall be mailed by the City Clerk to any resident of the City of Berkeley who so requests in writing. Copies shall also be available free of charge in the City Clerk Department.

**3. Distribution of the Agenda Packet.**

The Agenda Packet shall consist of the Agenda and all supporting documents for agenda items. No later than 11 days prior to a regular meeting, the City Clerk shall:

- a) distribute the Agenda Packet to each member of the City Council;
- b) post the Agenda Packet to the City's website;
- c) place copies of the Agenda Packet in viewing binders in the office of the City Clerk and in the main branch of the Berkeley Public Library; and
- d) make the Agenda Packet available to members of the press.

**4. Failure to Meet Deadlines.**

- a) The City Clerk shall not accept any agenda item or revised agenda item after the deadlines established.
- b) Matters not included on the published agenda may be discussed and acted upon as otherwise authorized by State law or providing the Council finds one of the following conditions is met:
  - A majority of the Council determines that the subject meets the criteria of "Emergency" as defined in Section III.B.5.
  - Two thirds of the Council determines that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the posting of the agenda as required by law.
- c) Matters listed on the printed agenda but for which supporting materials are not received by the City Council on the eleventh day prior to said meeting as part of the agenda packet, shall not be discussed or acted upon.

**E. Agenda Sequence and Order of Business**

The Council agenda for a regular business meeting is to be arranged in the following order:

1. Preliminary Matters: (Ceremonial, Comments from the City Manager, Comments from the City Auditor, Non-Agenda Public Comment)
2. Consent Calendar
3. Action Calendar
  - a) Appeals
  - b) Public Hearings
  - c) Continued Business
  - d) Old Business
  - e) New Business
4. Information Reports
5. Non-Agenda Public Comment
6. Adjournment
7. Communications

Action items may be reordered at the discretion of the Chair with the consent of Council.

The Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in this section.

**F. Closed Session Documents**

This section establishes a policy for the distribution of, and access to, confidential closed session documents by the Mayor and Members of the City Council.

1. Confidential closed session materials shall be kept in binders numbered from one to nine and assigned to the Mayor (#9) and each Councilmember (#1 to #8 by district). The binders will contain confidential closed session materials related to Labor Negotiations, Litigation, and Real Estate matters.
2. The binders will be maintained by City staff and retained in the Office of the City Attorney in a secure manner. City staff will bring the binders to each closed session for their use by the Mayor and Councilmembers. At other times, the binders will be available to the Mayor and Councilmembers during regular business hours for review in the City Attorney's Office. The binders may not be removed from the City Attorney's Office or the location of any closed session meeting by the Mayor or Councilmembers. City staff will collect the binders at the end of each closed session meeting and return them to the City Attorney's Office.



3. Removal of confidential materials from a binder is prohibited.
4. Duplication of the contents of a binder by any means is prohibited.
5. Confidential materials shall be retained in the binders for at least two years.
6. This policy does not prohibit the distribution of materials by staff to the Mayor and Councilmembers in advance of a closed session or otherwise as needed, but such materials shall also be included in the binders unless it is impracticable to do so.

## **G. Regulations Governing City Council Policy Committees**

### **1. Legislative Item Process**

All agenda items begin with submission to the Agenda & Rules Committee.

#### Full Council Track

Items under this category are exempt from Agenda & Rules Committee discretion to refer them to a Policy Committee. Items in this category may be submitted for the agenda of any scheduled regular meeting pursuant to established deadlines (same as existing deadlines). Types of Full Council Track items are listed below.

- a. Items submitted by the City Manager and City Auditor
- b. Items submitted by Boards and Commissions
- c. Resolutions on Legislation and Electoral Issues relating to Outside Agencies/Jurisdictions
- d. Position Letters and/or Resolutions of Support/Opposition
- e. Donations from the Mayor and Councilmember District Office Budgets
- f. Referrals to the Budget Process
- g. Proclamations
- h. Sponsorship of Events
- i. Information Reports
- j. Presentations from Outside Agencies and Organizations
- k. Ceremonial Items
- l. Committee and Regional Body Appointments

The Agenda & Rules Committee has discretion to determine if an item submitted by the Mayor or a Councilmember falls under a Full Council Track exception or if it will be processed as a Policy Committee Track item. If an item submitted by the Mayor or a Councilmember has 1) a significant lack of background or supporting information, or 2) significant grammatical or readability issues the Agenda & Rules committee may refer the item to a Policy Committee.

Policy Committee Track

Items submitted by the Mayor or Councilmembers with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts will go first to the Agenda & Rules Committee on a draft City Council agenda.

The Agenda & Rules Committee must refer an item to a Policy Committee at the first meeting that the item appears before the Agenda & Rules Committee. The Agenda & Rules Committee may only assign the item to a single Policy Committee.

For a Policy Committee Track item, the Agenda & Rules Committee, at its discretion, may either route item directly to 1) the agenda currently under consideration, 2) one of the next three full Council Agendas (based on completeness of the item, lack of potential controversy, minimal impacts, etc.), or 3) to a Policy Committee.

Time Critical Track

A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the Mayor or Councilmember is received by the City Clerk after established deadlines and is not included on the Agenda & Rules Committee's published agenda.

The Agenda & Rules Committee retains final discretion to determine the time critical nature of an item.

- a) Time Critical items submitted on the Full Council Track deadlines, that would otherwise be assigned to the Policy Committee Track, may bypass Policy Committee review if determined to be time critical. If such an item is deemed not to be time critical, it may be referred to a Policy Committee.
- b) Time Critical items on the Full Council Track or Policy Committee Track that are submitted at a meeting of the Agenda & Rules Committee may go directly on a council agenda if determined to be time critical.

**2. Council Referrals to Committees**

The full Council may refer any agenda item to a Policy Committee by majority vote.

**3. Participation Rules for Policy Committees Pursuant to the Brown Act**

- a. The quorum of a three-member Policy Committee is always two members. A majority vote of the committee (two 'yes' votes) is required to pass a motion.
- b. Two Policy Committee members may not discuss any item that has been referred to the Policy Committee outside of an open and noticed meeting.
- c. Notwithstanding paragraph (b) above, two members of a Policy Committee may co-author an item provided that one of the authors will not serve as a committee member for consideration of the item, and shall not participate in the committee's discussion of, or action on the item. For purposes of the item, the appointed

- alternate will serve as a committee member in place of the non-participating co-author.
- d. All three members of a Policy Committee may not be co-authors of an item that will be heard by the committee.
  - e. Only one co-author who is not a member of the Policy Committee may attend the committee meeting to participate in discussion of the item.
  - f. If two or more non-committee members are present for any item or meeting, then all non-committee members may act only as observers and may not participate in discussion. If an author is present to participate in the discussion of their item, no other Councilmembers, nor the Mayor, may attend as observers.
  - g. An item may be considered by only one Policy Committee before it goes to the full Council.

#### 4. Functions of the Committees

Committees shall have the following qualities/components:

- a. All committees are Brown Act bodies with noticed public meetings and public comment. Regular meeting agendas will be posted at least 72 hours in advance of the meeting.
- b. Minutes shall be available online.
- c. Committees shall adopt regular meeting schedules, generally meeting once or twice per month; special meetings may be called when necessary, in accordance with the Brown Act.
- d. Generally, meetings will be held at 2180 Milvia Street in publicly accessible meeting rooms that can accommodate the committee members, public attendees, and staff.
- e. Members are recommended by the Mayor and approved by the full Council no later than January 31 of each year. Members continue to serve until successors are appointed and approved.
- f. Chairs are elected by the Committee at the first regular meeting of the Committee after the annual approval of Committee members by the City Council. In the absence of the Chair, the committee member with the longest tenure on the Council will preside.
- g. The Chair, or a quorum of the Committee may call a meeting or cancel a meeting of the Policy Committee.
- h. Committees will review items for completeness in accordance with Section III.B.2 of the City Council Rules of Procedure and Order and alignment with Strategic Plan goals.
- i. Reports leaving a Policy Committee must adequately include budget implications, administrative feasibility, basic legal concerns, and staff resource demands in order to allow for informed consideration by the full Council.
- j. Per Brown Act regulations, any such materials must be direct revisions or supplements to the item that was published in the agenda packet.

Items referred to a Policy Committee from the Agenda & Rules Committee or from the City Council must be agendized for a committee meeting within 60 days of the referral date.

Within 120 days of the referral date, the committee must vote to either (1) accept the author's request that the item remain in committee until a date certain (more than one extension may be requested by the author); or (2) send the item to the Agenda & Rules Committee to be placed on a Council Agenda with a Committee recommendation consisting of one of the four options listed below.

1. Positive Recommendation (recommending Council pass the item as proposed),
2. Qualified Positive Recommendation (recommending Council pass the item with some changes),
3. Qualified Negative Recommendation (recommending Council reject the item unless certain changes are made) or
4. Negative Recommendation (recommending the item not be approved).

The Policy Committee's recommendation will be included in a separate section of the report template for that purpose.

A Policy Committee may not refer an item under its consideration to a city board or commission.

The original Council author of an item referred to a Policy Committee is responsible for revisions and resubmission of the item back to the full Council. Items originating from the City Manager are revised and submitted by the appropriate city staff. Items from Commissions are revised and resubmitted by the members of the Policy Committee. Items and Recommendations originating from the Policy Committee are submitted to the agenda process by the members of the committee.

If a Policy Committee does not take final action by the 120-day deadline, the item is returned to the Agenda & Rules Committee and appears on the next available Council agenda. The Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the next Council agenda. Items appearing on a City Council agenda due to lack of action by a Policy Committee may not be referred to a Policy Committee and must remain on the full Council agenda for consideration.

Non-legislative or discussion items may be added to the Policy Committee agenda by members of the Committee with the concurrence of a quorum of the Committee. These items are not subject to the 120-day deadline for action.

Once the item is voted out of a Policy Committee, the final item will be resubmitted to the agenda process by the author, and it will return to the Agenda & Rules Committee on the

next available agenda. The Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the following Council agenda. Only items that receive a Positive Recommendation can be placed on the Consent Calendar.

The lead author may request expedited committee review for items referred to a committee. Criteria for expedited review is generally to meet a deadline for action (e.g. grant deadline, specific event date, etc.). If the committee agrees to the request, the deadline for final committee action is 45 days from the date the committee approves expedited review.

### **5. Number and Make-up of Committees**

Six committees are authorized, each comprised of three Councilmembers with a fourth Councilmember appointed as an alternate. Each Councilmember and the Mayor will serve on two committees. The Mayor shall be a member of the Agenda and Rules Committee. The committees are as follows:

1. Agenda and Rules Committee
2. Budget and Finance Committee
3. Facilities, Infrastructure, Transportation, Environment, and Sustainability
4. Health, Life Enrichment, Equity, and Community
5. Land Use, Housing, and Economic Development
6. Public Safety

The Agenda & Rules Committee shall establish the Policy Committee topic groupings, and may adjust said groupings periodically thereafter in order to evenly distribute expected workloads of various committees.

All standing Policy Committees of the City Council are considered “legislative bodies” under the Brown Act and must conduct all business in accordance with the Brown Act.

### **6. Role of City Staff at Committee Meetings**

Committees will be staffed by appropriate City Departments and personnel. As part of the committee process, staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item. Staff analysis at the Policy Committee level is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

## IV. CONDUCT OF MEETING

### A. Comments from the Public

Public comment will be taken in the following order:

- An initial ten-minute period of public comment on non-agenda items, after the commencement of the meeting and immediately after Ceremonial Matters and City Manager Comments.
- Public comment on the Consent and Information Calendars.
- Public comment on action items, appeals and/or public hearings as they are taken up under procedures set forth in the sections governing each below.
- Public comment on non-agenda items from any speakers who did not speak during the first round of non-agenda public comment at the beginning of the meeting.

Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. A speaker wishing to yield their time shall identify themselves, shall be recognized by the chair, and announce publicly their intention to yield their time. Disabled persons shall have priority seating in the front row of the public seating area.

A member of the public may only speak once at public comment on any single item, unless called upon by the Mayor or a Councilmember to answer a specific inquiry.

#### 1. Public Comment on Consent Calendar and Information Items.

The Council will first determine whether to move items on the agenda for “Action” or “Information” to the “Consent Calendar,” or move “Consent Calendar” items to “Action.” Items that remain on the “Consent Calendar” are voted on in one motion as a group. “Information” items are not discussed or acted upon at the Council meeting unless they are moved to “Action” or “Consent.”

The Council will then take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. A speaker may only speak once during the period for public comment on Consent Calendar and Information items. No additional items can be moved onto the Consent Calendar once public comment has commenced.

At any time during, or immediately after, public comment on Information and Consent items, the Mayor or any Councilmember may move any Information or Consent item to “Action.” Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

**2. Public Comment on Action Items.**

After the initial ten minutes of public comment on non-agenda items and public comment and action on consent items, the public may comment on each remaining item listed on the agenda for action as the item is taken up.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

This procedure also applies to public hearings except those types of public hearings specifically provided for in this section.

**3. Appeals Appearing on Action Calendar.**

With the exception of appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission, appeals from decisions of City commissions appear on the "Action" section of the Council Agenda. Council determines whether to affirm the action of the commission, set a public hearing, or remand the matter to the commission. Appeals of proposed special assessment liens shall also appear on the "Action" section of the Council Agenda. Appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission are automatically set for public hearing and appear on the "Public Hearings" section of the Council Agenda.

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have seven minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment. In the case of an appeal of proposed special assessment lien, the appellant shall have seven minutes to comment.

After the conclusion of the seven-minute comment periods, members of the public may comment on the appeal. Comments from members of the public regarding appeals shall be limited to one minute per speaker. Any person that addressed the Council during one of the seven-minute periods may not speak again during the public comment period on the appeal. Speakers may yield their time to one other speaker, however, no speaker shall have more than two minutes. Each side shall be informed of this public comment procedure at the time the Clerk notifies the parties of the date the appeal will appear on the Council agenda.

**4. Public Comment on Non Agenda Matters.**

Immediately following Ceremonial Matters and the City Manager Comments and prior to the Consent Calendar, persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting.

The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.

Persons submitting speaker cards are not required to list their actual name, however they must list some identifying information or alternate name in order to be called to speak.

For the second round of public comment on non-agenda matters, the Presiding Officer retains the authority to limit the number of speakers by subject. The Presiding Officer will generally request that persons wishing to speak, line up at the podium to be recognized to determine the number of persons interested in speaking at that time. Each speaker will be entitled to speak for two minutes each unless the Presiding Officer determines that one-minute is appropriate given the number of speakers.

Pursuant to this document, no Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items. If any agenda item remains unfinished at 11:00 p.m. or the expiration of any extension after 11:00 p.m., it will be referred to the Agenda & Rules Committee for scheduling pursuant to Chapter II, Section F. In that event, the meeting shall be automatically extended for up to fifteen (15) minutes for public comment on non-agenda items.

**5. Ralph M. Brown Act Pertaining to Public Comments.**

The "Brown Act" prohibits the Council from discussing or taking action on an issue raised during Public Comment, unless it is specifically listed on the agenda. However, the Council may refer a matter to the City Manager.

**B. Consent Calendar**

There shall be a Consent Calendar on all regular meeting agendas on which shall be included those matters which the Mayor, Councilmembers, boards, commissions, City Auditor and City Manager deem to be of such nature that no debate or inquiry will be necessary at the Council meetings. Ordinances for second reading may be included in the Consent Calendar.



It is the policy of the Council that the Mayor or Councilmembers wishing to ask questions concerning Consent Calendar items should ask questions of the contact person identified prior to the Council meeting so that the need for discussion of consent calendar items can be minimized.

Consent Calendar items may be moved to the Action Calendar by the Council. Action items may be reordered at the discretion of the Chair with the consent of Council.

**C. Information Reports Called Up for Discussion**

Reports for Information designated for discussion at the request of the Mayor or any Councilmember shall be added to the appropriate section of the Action Calendar and may be acted upon at that meeting or carried over as pending business until discussed or withdrawn. The agenda will indicate that at the request of Mayor or any Councilmember a Report for Information may be acted upon by the Council.

**D. Communications**

Letters from the public will not appear on the Council agenda as individual matters for discussion but will be distributed as part of the Council agenda packet with a cover sheet identifying the author and subject matter and will be listed under "Communications." All such communications must have been received by the City Clerk no later than 5:00 p.m. fifteen days prior to the meeting in order to be included on the agenda.

In instances where an individual forwards more than three pages of email messages not related to actionable items on the Council agenda to the Council to be reproduced in the "Communications" section of the Council packet, the City Clerk will not reproduce the entire email(s) but instead refer the public to the City's website or a hard copy of the email(s) on file in the City Clerk Department.

All communications shall be simply deemed received without any formal action by the Council. The Mayor or a Councilmember may refer a communication to the City Manager for action, if appropriate, or prepare a consent or action item for placement on a future agenda.

Communications related to an item on the agenda that are received after 5:00 p.m. fifteen days before the meeting are published as provided for in Chapter III.C.4.

**E. Public Hearings for Land Use, Zoning, Landmarks, and Public Nuisance Matters**

The City Council, in setting the time and place for a public hearing, may limit the amount of time to be devoted to public presentations. Staff shall introduce the public hearing item and present their comments.

Following any staff presentation, each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Members shall also submit a report of such contacts in writing prior to the commencement of the hearing. Such reports shall include a brief statement describing the name, date, place, and content of the contact. Written reports shall be available for public review

in the office of the City Clerk prior to the meeting and placed in a file available for public viewing at the meeting.

This is followed by five-minute presentations each by the appellant and applicant. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have five minutes to comment and the applicant shall have five minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have five minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have five minutes to comment and the persons supporting the action of the board or commission on appeal shall have five minutes to comment. In the case of a public nuisance determination, the representative(s) of the subject property shall have five minutes to present.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Any person that addressed the Council during one of the five-minute periods may not speak again during the public comment period on the appeal. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

#### **F. Work Sessions**

The City Council may schedule a matter for general Council discussion and direction to staff. Official/formal action on a work session item will be scheduled on a subsequent agenda under the Action portion of the Council agenda.

In general, public comment at Council work sessions will be heard after the staff presentation, for a limited amount of time to be determined by the Presiding Officer.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

After Council discussion, if time permits, the Presiding Officer may allow additional public comment. During this time, each speaker will receive one minute. Persons who spoke during the prior public comment time may be permitted to speak again.

**H. Protocol**

People addressing the Council may first give their name in an audible tone of voice for the record. All remarks shall be addressed to the Council as a body and not to any member thereof. No one other than the Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked of a Councilmember except through the Presiding Officer.

**V. PROCEDURAL MATTERS****A. Persons Authorized to Sit at Tables**

No person, except City officials, their representatives and representatives of boards and commissions shall be permitted to sit at the tables in the front of the Council Chambers without the express consent of the Council.

**B. Decorum**

No person shall disrupt the orderly conduct of the Council meeting. Prohibited disruptive behavior includes but is not limited to shouting, making disruptive noises, such as boos or hisses, creating or participating in a physical disturbance, speaking out of turn or in violation of applicable rules, preventing or attempting to prevent others who have the floor from speaking, preventing others from observing the meeting, entering into or remaining in an area of the meeting room that is not open to the public, or approaching the Council Dais without consent. Any written communications addressed to the Council shall be delivered to the City Clerk for distribution to the Council.

**C. Enforcement of Decorum**

When the public demonstrates a lack of order and decorum, the presiding officer shall call for order and inform the person(s) that the conduct is violating the Rules of Order and Procedure and provide a warning to the person(s) to cease the disruptive behavior. Should the person(s) fail to cease and desist the disruptive conduct, the presiding officer may call a five (5) minute recess to allow the disruptions to cease.

If the meeting cannot be continued due to continued disruptive conduct, the presiding officer may have any law enforcement officer on duty remove or place any person who violates the order and decorum of the meeting under arrest and cause that person to be prosecuted under the provisions of applicable law.

**D. Precedence of Motions**

When a question is before the Council, no motion shall be entertained except:

1. To adjourn,
2. To fix the hour of adjournment,
3. To lay on the table,
4. For the previous question,
5. To postpone to a certain day,
6. To refer,
7. To amend,
8. To substitute, and
9. To postpone indefinitely.

These motions shall have precedence in order indicated. Any such motion, except a motion to amend or substitute, shall be put to a vote without debate.

**E. Roberts Rules of Order**

Roberts Rules of Order have been adopted by the City Council and apply in all cases except the precedence of motions in Section V.D shall supersede.

**F. Rules of Debate**

**1. Presiding Officer May Debate.**

The presiding officer may debate from the chair; subject only to such limitations of debate as are by these rules imposed on all members, and shall not be deprived of any of the rights and privileges as a member of the Council by reason of that person acting as the presiding officer.

**2. Getting the Floor - Improper References to be avoided.**

Members desiring to speak shall address the Chair, and upon recognition by the presiding officer, shall confine themselves to the question under debate.

**3. Interruptions.**

A member, once recognized, shall not be interrupted when speaking unless it is to call a member to order, or as herein otherwise provided. If a member, while speaking, were called to order, that member shall cease speaking until the question of order is determined, and, if in order, the member shall be permitted to proceed.

**4. Privilege of Closing Debate.**

The Mayor or Councilmember moving the adoption of an ordinance or resolution shall have the privilege of closing the debate. When a motion to call a question is passed, the Mayor or Councilmember moving adoption of an ordinance, resolution or other action shall have three minutes to conclude the debate.

**5. Motion to Reconsider.**

A motion to reconsider any action taken by the Council may be made only during the same session such action is taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made by a member on the prevailing side, and may be made at any time and have precedence over all other motions or while a member has the floor; it shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same or other motion at a subsequent meeting of the Council.

**6. Repeal or Amendment of Action Requiring a Vote of Two-Thirds of Council, or Greater.**

Any ordinance or resolution which is passed and which, as part of its terms, requires a vote of two-thirds of the Council or more in order to pass a motion pursuant to such an ordinance or resolution, shall require the vote of the same percent of the Council to repeal or amend the ordinance or resolution.

**G. Debate Limited**

1. Consideration of each matter coming before the Council shall be limited to 20 minutes from the time the matter is first taken up, at the end of which period consideration of such matter shall terminate and the matter shall be dropped to the foot of the agenda, immediately ahead of Information Reports; provided that either of the following two not debatable motions shall be in order:
  - a) A motion to extend consideration which, if passed, shall commence a new twenty-minute period for consideration; or
  - b) If there are one or more motions on the floor, the previous question, which, if passed, shall require an immediate vote on pending motions.
2. The time limit set forth in subparagraph 1 hereof shall not be applicable to any public hearing, public discussion, Council discussion or other especially set matter for which a period of time has been specified (in which case such specially set time shall be the limit for consideration) or which by applicable law (e.g. hearings of appeals, etc.), the matter must proceed to its conclusion.
3. In the interest of expediting the business of the City, failure by the Chair or any Councilmember to call attention to the expiration of the time allowed for consideration of a matter, by point of order or otherwise, shall constitute unanimous consent to the continuation of consideration of the matter beyond the allowed time; provided, however, that the Chair or any Councilmember may at any time thereafter call attention to the expiration of the time allowed, in which case the Council shall proceed to the next item of business, unless one of the motions referred to in Section D hereof is made and is passed.

**H. Motion to Lay on Table**

A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the consideration of the subject may be resumed only upon a motion of a member voting with the majority and with consent of two-thirds of the members present.

**I. Division of Question**

If the question contains two or more propositions, which can be divided, the presiding officer may, and upon request of a member shall, divide the same.

**J. Addressing the Council**

Under the following headings of business, unless the presiding officer rules otherwise, any interested person shall have the right to address the Council in accordance with the following conditions and upon obtaining recognition by the presiding officer:

**1. Written Communications.**

Interested parties or their authorized representatives may address the Council in the form of written communications in regard to matters of concern to them by submitting their written communications at the meeting, or prior to the meeting pursuant to the deadlines in Chapter III.C.4.

**2. Public Hearings.**

Interested persons or their authorized representatives may address the Council by reading protests, petitions, or communications relating to matters then under consideration.

**3. Public Comment.**

Interested persons may address the Council on any issue concerning City business during the period assigned to Public Comment.

**K. Addressing the Council After Motion Made**

When a motion is pending before the Council, no person other than the Mayor or a Councilmember shall address the Council without first securing the permission of the presiding officer or Council to do so.

## VI.FACILITIES

### A. Council Chamber Capacity

Attendance at council meetings shall be limited to the posted seating capacity of the meeting location. Entrance to the meeting location will be appropriately regulated by the City Manager on occasions when capacity is likely to be exceeded. While the Council is in session, members of the public shall not remain standing in the meeting room except to address the Council, and sitting on the floor shall not be permitted.

### B. Alternate Facilities for Council Meetings

The City Council shall approve in advance a proposal that a Council meeting be held at a facility other than the School District Board Room.

If the City Manager has reason to anticipate that the attendance for a meeting will be substantially greater than the capacity of the Board Room and insufficient time exists to secure the approval of the City Council to hold the meeting at an alternate facility, the City Manager shall make arrangements for the use of a suitable alternate facility to which such meeting may be recessed and moved, if the City Council authorizes the action.

If a suitable alternate facility is not available, the City Council may reschedule the matter to a date when a suitable alternate facility will be available.

Alternate facilities are to be selected from those facilities previously approved by the City Council as suitable for meetings away from the Board Room.

### C. Signs, Objects, and Symbolic Materials

Objects and symbolic materials such as signs which do not have sticks or poles attached or otherwise create any fire or safety hazards will be allowed within the meeting location during Council meetings.

### D. Fire Safety

Exits shall not be obstructed in any manner. Obstructions, including storage, shall not be placed in aisles or other exit ways. Hand carried items must be stored so that such items do not inhibit passage in aisles or other exit ways. Attendees are strictly prohibited from sitting in aisles and/or exit ways. Exit ways shall not be used in any way that will present a hazardous condition.

### E. Overcrowding

Admittance of persons beyond the approved capacity of a place of assembly is prohibited. When the meeting location has reached the posted maximum capacity, additional attendees shall be directed to the designated overflow area.



## APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES

### Purpose

To establish a uniform policy regarding the naming and renaming of existing and future parks, streets, pathways and other public facilities.

### Objective

- A. To ensure that naming public facilities (such as parks, streets, recreation facilities, pathways, open spaces, public building, bridges or other structures) will enhance the values and heritage of the City of Berkeley and will be compatible with community interest.

### Section 1 – Lead Commission

The City Council designates the following commissions as the ‘Lead Commissions’ in overseeing, evaluating, and ultimately advising the Council in any naming or renaming of a public facility. The lead commission shall receive and coordinate comment and input from other Commissions and the public as appropriate.

#### Board of Library Trustees

Parks and Recreation Commission –Parks, recreation centers, camps, plazas and public open spaces

Public Works Commission –Public buildings (other than recreation centers), streets and bridges or other structures in the public thoroughfare.

Waterfront Commission –Public facilities within the area of the City known as the Waterfront, as described in BMC 3.36.060.B.

### Section 2 – General Policy

- A. Newly acquired or developed public facilities shall be named immediately after acquisition or development to ensure appropriate public identity.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. Public facilities that are renamed must follow the same criteria for naming new facilities. In addition, the historical significance and geographical reference of the established name should be considered when weighing and evaluating any name change.
- D. The City encourages the recognition of individuals for their service to the community in ways that include the naming of activities such as athletic events, cultural presentations, or annual festivals, which do not involve the naming or renaming of public facilities.
- E. Unless restricted by covenant, facilities named after an individual should not necessarily be considered a perpetual name.

### Section 3 – Criteria for Naming of Public Facilities

When considering the naming of a new public facility or an unnamed portion or feature within an already named public facility (such as a room within the facility or a feature within an established park), or, the renaming of an existing public facility the following criteria shall be applied:

- A. Public Facilities are generally easier to identify by reference to adjacent street names, distinct geographic or environmental features, or primary use activity. Therefore, the preferred practice is to give City-owned property a name of historical or geographical significance and to retain these names.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. The naming of a public facility or any parts thereof in recognition of an individual posthumously may only be considered if the individual had a positive effect on the community and has been deceased for more than 1 year.
- D. When a public facility provides a specific programmatic activity, it is preferred that the activity (e.g. skateboard park, baseball diamond) be included in the name of the park or facility.
- E. When public parks are located adjacent to elementary schools, a name that is the same as the adjacent school shall be considered.
- F. When considering the renaming of an existing public facility, in addition to applying criteria A-E above, proper weight should be given to the fact that: a name lends a site or property authenticity and heritage; existing names are presumed to have historic significance; and historic names give a community a sense of place and identity, continuing through time, and increases the sense of neighborhood and belonging.

#### Section 4 –Naming Standards Involving a Major Contribution

When a person, group or organization requests the naming or renaming of a public facility, all of the following conditions shall be met:

- A. An honoree will have made a major contribution towards the acquisition and/or development costs of a public facility or a major contribution to the City.
- B. The honoree has a record of outstanding service to their community
- C. Conditions of any donation that specifies that name of a public facility, as part of an agreement or deed, must be approved by the City Council, after review by and upon recommendation of the City Manager.

#### Section 5 –Procedures for Naming or Renaming of Public Facilities

- A. Any person or organization may make a written application to the City Manager requesting that a public facility or portion thereof, be named or renamed.
  - 1. Recommendations may also come directly of the City Boards or Commissions, the City Council, or City Staff.
- B. The City Manager shall refer the application to the appropriate lead commission as defined in Section 1 of the City's policy on naming of public facilities, for that commission's review, facilitation, and recommendation of disposition.
  - 1. The application shall contain the name or names of the persons or organization making the application and the reason for the requested naming or renaming.
- C. The lead commission shall review and consider the application, using the policies and criteria articulated to the City Policy on Naming and Renaming to make a recommendation to Council.
  - 1. All recommendations or suggestion will be given the same consideration without regard to the source of the nomination
- D. The lead commission shall hold a public hearing and notify the general public of any discussions regarding naming or renaming of a public facility.

1. Commission action will be taking at the meeting following any public hearing on the naming or renaming.
- E. The commission's recommendation shall be forwarded to Council for final consideration.

The City of Berkeley Policy for Naming and Renaming Public Facilities was adopted by the Berkeley City Council at the regular meeting of January 31, 2012.

## APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the Agenda & Rules Committee to request that the author of an item provide “additional analysis” if the item as submitted evidences a “significant lack of background or supporting information” or “significant grammatical or readability issues.”

These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. While not all elements would be applicable to every type of Agenda item, they are intended to prompt authors to consider presenting items with as much relevant information and analysis as possible.

Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:

2. Agenda items shall contain all relevant documentation, including the following as Applicable:
  - a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
  - b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
  - c. Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);
  - d. Fiscal impacts of the recommendation;
  - e. A description of the current situation and its effects;
  - f. Background information as needed;
  - g. Rationale for recommendation;
  - h. Alternative actions considered;
  - i. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
  - j. Person or persons to contact for further information, with telephone number. If the author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.

Guidelines for City Council Items:

1. Title
2. Consent/Action/Information Calendar
3. Recommendation
4. Summary Statement/Current situation and its effects
5. Background
6. Review of Existing Plans, Programs, Policies and Laws
7. Actions/Alternatives Considered
8. Consultation/Outreach Overview and Results
9. Rationale for Recommendation
10. Implementation, Administration and Enforcement
11. Environmental Sustainability
12. Fiscal Impacts
13. Outcomes and Evaluation
14. Contact Information
15. Attachments/Supporting Materials

---

**1. Title**

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

**2. Consent/Action/Information Calendar**

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

**3. Recommendation**

Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

Common action options include:

- Adopt first reading of ordinance
- Adopt a resolution
- Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
- Direction to the City Manager (City Manager is directed to execute the recommendation right away, it is not placed on any referral list)
- Referral to a Commission or to a Standing or Ad Hoc Council Committee
- Referral to the budget process
- Send letter of support
- Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
- Designate members of the Council to perform some action

**4. Summary Statement/ “Current situation and its effects”**

A short resume of the circumstances that give rise to the need for the recommended action(s).

- Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.
- Example (fictional):  
*Winter rains are lasting longer than expected. Berkeley’s winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season, hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley’s winter shelters open until the end of April, and refers to the Budget Process \$40,000 to cover costs of an additional two months of shelter operations.*

**5. Background**

A full discussion of the history, circumstances and concerns to be addressed by the item.

- For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

**6. Review of Existing Plans, Programs, Policies and Laws**

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

Review of all pertinent/applicable sections of:

- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

Review of all applicable City Plans:

- The General Plan
- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan

- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan

Review of similar legislation previously introduced/passed by Council

Review of County, State and Federal laws/policies/programs/plans, if applicable

## 7. Actions/Alternatives Considered

- What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
- What solutions/measures are recommended by **advocates, experts, organizations**?
- What is the range of actions considered, and what are some of their major pros and cons?
- Why were other solutions not as feasible/advisable?

## 8. Consultation/Outreach Overview and Results

- Review/list external and internal stakeholders that were consulted
  - **External:** constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
  - **Internal:** staff who would implement policies, the City Manager and/or deputy CM, Department Heads, City Attorney, Clerk, etc.
- What reports, articles, books, websites and other materials were consulted?
- What was learned from these sources?
- What changes or approaches did they advocate for that were accepted or rejected?

## 9. Rationale for Recommendation

A clear and concise statement as to whether the item proposes actions that:

- Conform to, clarify or extend existing Plans, Programs, Policies and Laws
- Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
- Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
- Create an exception to existing Plans, Programs, Policies and Laws
- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented,

but should be presented/restated/summarized. Plus, further elaboration of terms for recommendations, if any.

**10. Implementation, Administration and Enforcement**

Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation?

**11. Environmental Sustainability**

Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

**12. Fiscal Impacts**

Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs.

**13. Outcomes and Evaluation**

State the specific outcomes expected, if any (i.e., "*it is expected that 100 homeless people will be referred to housing every year*") and what reporting or evaluation is recommended.

**14. Contact Information**

**15. Attachments/Supporting Materials**



**This version incorporates  
the edits and changes  
made through the  
meeting of Sept. 16, 2019.**

# The Berkeley City Council Rules of Procedure and Order

Adopted by Resolution No. ~~##,###~~–N.S.  
Effective ~~October~~ 29, 2019

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## I. DUTIES

## I. DUTIES

## A. Duties of Mayor

The Mayor shall preside at the meetings of the Council and shall preserve strict order and decorum at all regular and special meetings of the Council. The Mayor shall state every question coming before the Council, announce the decision of the Council on all subjects, and decide all questions of order, subject, however, to an appeal to the Council, in which event a majority vote of the Council shall govern and conclusively determine such question of order. In the Mayor's absence, the Vice President of the Council (hereafter referred to as the Vice-Mayor) shall preside.

**Commented [NML1]:** Standard current practice per City Charter

## B. Duties of Councilmembers

Promptly at the hour set by law on the date of each regular meeting, the members of the Council shall take their regular stations in the Council Chambers and the business of the Council shall be taken up for consideration and disposition.

## C. Motions to be Stated by Chair

When a motion is made, it may be stated by the Chair or the City Clerk before debate.

## D. Decorum by Councilmembers

While the Council is in session, the City Council will practice civility and decorum in their discussions and debate. Councilmembers will value each other's time and will preserve order and decorum. A member shall neither, by conversation or otherwise, delay or interrupt the proceedings of the Council, use personal, impertinent or slanderous remarks, nor disturb any other member while that member is speaking or refuse to obey the orders of the presiding officer or the Council, except as otherwise provided herein.

All Councilmembers have the opportunity to speak and agree to disagree but no Councilmember shall speak twice on any given subject unless all other Councilmembers have been given the opportunity to speak. The Presiding Officer may set limits on the speaking time allotted to Councilmembers during Council discussion.

**Commented [NML2]:** Edit from July 15, 2019 Agenda & Rules Committee meeting

The presiding officer has the affirmative duty to maintain order. The City Council will honor the role of the presiding officer in maintaining order. If a Councilmember believes the presiding officer is not maintaining order, the Councilmember may move that the Vice-Mayor, or another Councilmember if the Vice-Mayor is acting as the presiding officer at the time, enforce the rules of decorum and otherwise maintain order. If that motion receives a second and is approved by a majority of the Council, the Vice-Mayor, or other designated Councilmember, shall enforce the rules of decorum and maintain order.

## E. Voting Disqualification

No member of the Council who is disqualified shall vote upon the matter on which the member is disqualified. Any member shall openly state or have the presiding officer announce the fact and nature of such disqualification in open meeting, and shall not be subject to further inquiry. Where no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the member affected, be

I. DUTIES

decided by the other members of the Council, by motion, and such decision shall determine such member's right and obligation to vote. A member who is disqualified by conflict of interest in any matter shall not remain in the Chamber during the debate and vote on such matter, but shall request and be given the presiding officer's permission to ~~absent~~ ~~recuse~~ themselves. Any member having a "remote interest" in any matter as provided in Government Code shall divulge the same before voting.

Commented [NML3]: Correct terminology

**F. Requests for Technical Assistance and/or Reports**

A majority vote of the Council shall be required to direct staff to provide technical assistance, develop a report, initiate staff research, or respond to requests for information or service generated by an individual council member.

**~~G. City Council Policy for Naming and Renaming Public Facilities~~**

~~The City Council Policy for Naming and Renaming Public Facilities adopted on January 31, 2012, and all its successors, is incorporated by reference into the City Council Rules of Procedure and included as Appendix A to this document.~~

Commented [NML4]: Edit from July 15, 2019 Agenda & Rules Committee meeting  
Language is unnecessary here

II. MEETINGS

II. MEETINGS

A. Call to Order - Presiding Officer

The Mayor, or in the Mayor's absence, the Vice Mayor, shall take the chair precisely at the hour appointed by the meeting and shall immediately call the Council to order. Upon the arrival of the Mayor, the Vice Mayor shall immediately relinquish the chair. ~~at the conclusion of the business presently before the Council.~~ In the absence of the two officers specified in this section, the ~~Councilmember~~~~council member~~ present with the longest period of Council service shall preside.

Commented [NML5]: Edit from July 15, 2019 Agenda & Rules Committee meeting

Mayor resume chair upon resuming place on dais

Commented [NML6]: Amended to standardize use throughout the document

B. Roll Call

Before the Council shall proceed with the business of the Council, the City Clerk shall call the roll of the members and the names of those present shall be entered in the minutes. The later arrival of any absentee shall also be entered in the minutes.

C. Quorum Call

During the course of the meeting, should the Chair note a Council quorum is lacking, the Chair shall call this fact to the attention of the City Clerk. The City Clerk shall issue a quorum call. If a quorum has not been restored within two minutes of a quorum call, the meeting shall be deemed automatically adjourned.

D. Council Meeting ~~Schedule~~Conduct of Business

~~The City Council shall hold a minimum of twenty four (24) meetings, or the amount needed to conduct City business in a timely manner, whichever is greater, each calendar year.~~

Commented [NML7]: Moved to more appropriate location below

~~Regular meetings of the City Council shall be held generally two to three Tuesdays of each month; the schedule to be established annually by Council resolution taking into consideration holidays and election dates.~~

~~Regular City Council meetings shall begin no later than 6:00 p.m.~~

The agenda for the regular business meetings shall include the following: Ceremonial ~~items (including comments from the City Auditor if requested)~~; Comments from the City Manager; Comments from the Public; Consent Calendar; Action Calendar (Appeals, Public Hearings, Continued Business, Old Business, New Business); Information Reports; and Communication from the Public. Presentations and workshops may be included as part of the Action Calendar. ~~Items removed from the Consent Calendar will be moved to the Action Calendar.~~ The Chair will determine the order in which the item(s) will be heard with the consent of Council.

Commented [NML8]: Edit from July 15, 2019 Agenda & Rules Committee meeting

Commented [NML9]: Items removed from Consent may have many other actions taken and listing this single action is misleading.

Upon request by ~~the Mayor or~~ any ~~Councilmember~~~~council member~~, any item may be moved from the Consent Calendar or Information Calendar to the Action Calendar. Unless there is an objection by ~~the Mayor or~~ any ~~Councilmember~~~~council member~~, ~~athe~~ ~~Council~~~~council member~~ may also move an item from the Action Calendar to the Consent Calendar.

Commented [NML10]: Amended for clarity throughout document

Commented [NML11]: Edit from July 15, 2019 Agenda & Rules Committee meeting – changed "a Councilmember" to "the Council"

A public hearing that is not expected to be lengthy may be placed on the agenda for a regular business meeting. When a public hearing is expected to be contentious

## II. MEETINGS

and lengthy and/or the Council's regular meeting schedule is heavily booked, the ~~Agenda Committee~~Agenda & Rules Committee, in conjunction with the staff, will schedule a special meeting exclusively for the public hearing. No other matters shall be placed on the agenda for the special meeting. All public comment will be considered as part of the public hearing and no separate time will be set aside for public comment not related to the public hearing at this meeting.

**Commented [NML12]:** Amended to standardize use throughout the document

Except at meetings at which the budget is to be adopted, no public hearing may commence later than 10:00 p.m. unless there is a legal necessity to hold the hearing or make a decision at that meeting or the City Council determines by a two-thirds vote that there is a fiscal necessity to hold the hearing.

**E. Adjournment**

1. No Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items; and any motion to extend the meeting beyond 11:00 p.m. shall include a list of specific agenda items to be covered and shall specify in which order these items shall be handled.
2. Any items not completed at a regularly scheduled Council meeting may be continued to an Adjourned Regular Meeting by a two-thirds majority vote of the Council.

**F. Unfinished Business**

Any items not completed by formal action of the Council, and any items not postponed to a date certain, shall be considered Unfinished Business. All Unfinished Business shall be referred to the ~~Agenda Committee~~Agenda & Rules Committee for scheduling for a Council meeting that occurs within 60 days from the date the item last appeared on a Council agenda. The 60 day period is tolled during a Council recess.

**G. City Council Schedule and Recess Periods**

Pursuant to the Open Government Ordinance, the City Council shall hold a minimum of twenty-four (24) meetings, or the amount needed to conduct City business in a timely manner, whichever is greater, each calendar year.

Regular meetings of the City Council shall be held generally two to three Tuesdays of each month; the schedule to be established annually by Council resolution taking into consideration holidays and election dates.

Regular City Council meetings shall begin no later than 6:00 p.m.

**Commented [NML13]:** Proposed addition regarding starting early for ceremonial items was removed at the July 15, 2019 Agenda & Rules Committee meeting

A recess period is defined as a period of time longer than 21 days without a regular ~~or special~~ meeting of the Council.

**Commented [NML14]:** Special meetings are as needed and are not factored in to the annual schedule that is adopted, which includes the recess periods.

When a recess period occurs, the City Manager is authorized to take such ministerial actions for matters of operational urgency as would normally be taken by the City Council during the period of recess except for those duties specifically reserved to the Council by the Charter, and including such emergency actions as are necessary for the immediate preservation of the public peace, health or safety; the authority to

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extend throughout the period of time established by the City Council for the period of recess.

The City Manager shall have the aforementioned authority beginning the day after the ~~Agenda Committee~~ Agenda & Rules Committee meeting for the last regular meeting before a Council recess and this authority shall extend ~~through-up to the deadline for submission of staff reports for date of the first~~ Agenda & Rules Committee meeting ~~for the first regular meeting~~ after the Council recess.

**Commented [NML15]:** The existing definition left a significant gap that did not allow City Manager action on administratively urgent items

**Commented [NML16]:** Edit from July 15, 2019 Agenda & Rules Committee meeting

The City Manager shall make a full and complete report to the City Council at its first regularly scheduled meeting following the period of recess of actions taken by the City Manager pursuant to this section, at which time the City Council may make such findings as may be required and confirm said actions of the City Manager.

#### H. Pledge of Allegiance to the Flag

At the first meeting of each year following the August recess and at any subsequent meeting if specifically requested before the meeting by any member of the Council in order to commemorate an occasion of national significance, the first item on the ~~program~~ Ceremonial Calendar will be the Pledge of Allegiance.

#### I. Ad Hoc Subcommittees

From time to time the Council or the Mayor may appoint several of its members but fewer than the existing quorum of the present body to serve as an ad hoc subcommittee. Only Council ~~members~~ may ~~become~~ be members of the ad hoc subcommittee; however, the subcommittee shall seek input and advice from ~~the~~ residents, related commissions, and other groups. Ad Hoc Subcommittees must be reviewed annually by the Council to determine if the subcommittee is to continue.

Upon creation of an ad hoc subcommittee, the Council shall allow it to operate with the following parameters:

1. A specific charge or outline of responsibilities shall be established by the Council.
2. A target date must be established for a report back to the Council.
3. Maximum life of the subcommittee shall be one year, with annual review and possible extension by the Council.

Subcommittees shall conduct their meetings in ~~public and in accessible~~ locations that are open to the public ~~and meet accessibility requirements under the Americans with Disabilities Act~~. Meetings may be held at privately owned facilities provided that the location is open to all that wish to attend and that there is no requirement for purchase to attend. Agendas for subcommittee meetings must be posted in the same manner as the agendas for regular Council meetings except that subcommittee agendas may be posted with 24-hour notice. The public will be permitted to comment on agenda items but public comments may be limited to one minute if deemed necessary by the Committee Chair. Agendas and minutes of the meetings must be maintained and made available upon request.

**Commented [NML17]:** Edit from July 15, 2019 Agenda & Rules Committee meeting



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~~City staff may attend and participate in subcommittee meetings. Depending on the desires of the subcommittee members, City staff may participate the same as members of the public, or may be called upon to offer insights or provide information during discussion.~~

Ad hoc subcommittees will be staffed by City Council legislative staff. As part of the ad hoc subcommittee process, City staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item(s) under consideration. Staff analysis at ad hoc subcommittees is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

Subcommittees must be comprised of at least two members. If only two members are appointed, then both must be present in order for the subcommittee meeting to be held. In other words, the quorum for a two-member subcommittee is always two.

~~Certain requirements listed above may not apply to a~~Ad hoc subcommittees may seeking legal advice and assistance from the City Attorney or meeting with the City Manager or his/her designees for purposes of real estate or labor negotiations.~~convene a closed session meeting pursuant to the conditions and regulations imposed by the Brown Act.~~

**Commented [NML18]:** Staff proposed language based on discussion at July 15, 2019 Agenda & Rules Committee meeting. This language mirrors the language used for Policy Committees Charter III, Section G

**Commented [NML19]:** Staff proposed language based on discussion at July 15, 2019 Agenda & Rules Committee meeting.

## III. AGENDA

## III. AGENDA

## A. Declaration of Policy

No ordinance, resolution, or item of business shall be introduced, discussed or acted upon before the Council at its meeting without prior thereto its having been published on the agenda of the meeting and posted in accordance with Section III.D.2. Exceptions to this rule are limited to circumstances listed in Section III.D.4.b and items ~~carried over~~ continued from a previous meeting and published on a revised agenda.

Commented [NML20]: Additional clarification

## B. Definitions

For purposes of this section, the terms listed herein shall be defined as follows:

- "Agenda Item" means an item placed on the agenda (on either the Consent Calendar or as a Report For Action) for a vote of the Council by ~~the Mayor or any Councilmember~~ council member, the City Manager, the Auditor, or any board/commission/committee created by the City Council, or any Report For Information which may be acted upon if ~~the Mayor or a Councilmember~~ council member so requests. For purposes of this section, appeals shall be considered action items. All information from the City Manager concerning any item to be acted upon by the Council shall be submitted as a report on the agenda and not as an off-agenda memorandum and shall be available for public review, except to the extent such report is privileged and thus confidential such as an attorney client communication concerning a litigation matter.

Council agenda items are limited to a maximum of three Co-Sponsors (in addition to the Primary Author). Co-Sponsors to Council reports may only be added in the following manner:

Commented [NML21]: Must have certainty at the time of submission and throughout the process to properly monitor participation in policy committee meetings per the Brown Act. New language for designation of co-sponsors from the July 15, 2019 Agenda & Rules Committee meeting – removed limitation on when co-sponsors could be added and changed it to limit the addition of co-sponsors to discretion of the primary author.

- In the original item as submitted by the Primary Author
- In a revised item submitted by the Primary Author at the Agenda & Rules Committee
- By verbal request of the Primary Author at the Agenda & Rules Committee
- In a revised item submitted by the Primary Author in Supplemental Reports and Communications Packet #1 or #2
- By verbal or written request of the Mayor or any Councilmember at the Policy Committee meeting or meeting of the full council at which the item is considered

Agenda items shall contain all relevant documentation, including the information listed below, following as applicable:

- A descriptive title that adequately informs the public of the subject matter and general nature of the item or report ~~and action requested~~;
- Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;

## III. AGENDA

- c) Recommendation of the City Manager report author that describes the action to be taken on the item, if applicable; ~~(these provisions shall not apply to Mayor and Council items.);~~
- d) Fiscal impacts of the recommendation;
- e) A description of the current situation and its effects;
- f) Background information as needed;
- g) Rationale for recommendation;
- h) Alternative actions considered;
- i) For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
- j) Person or persons to contact for further information, with telephone number.
- k) Additional information and analysis as required. It is recommended that reports include the recommended points of analysis in the Council Report Guidelines in Appendix B.
- j) ~~If the author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.~~

**Commented [NML22]:** Required by the Brown Act for all agenda items.

**Commented [NML23]:** Outdated. We publish all materials except for the full administrative record of ZAB appeal.

2. "Primary Author" means the Mayor or Councilmember that initiated, authored, and submitted a council agenda item.

3. "Co-Sponsor" means the Mayor or other Councilmembers designated by the Primary Author to be co-sponsor of the council agenda item.

4. "Agenda" means the compilation of the descriptive titles of agenda items submitted to the City Clerk, arranged in the sequence established in Section III.E hereof.

5. "Packet" means the agenda plus all its corresponding duplicated agenda items.

6. "Emergency Matter" arises when prompt action is necessary due to the disruption or threatened disruption of public facilities and a majority of the Council determines that:

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- a) A work stoppage or other activity which severely impairs public health, safety, or both;
  - b) A crippling disaster, which severely impairs public health, safety or both. Notice of the Council's proposed consideration of any such emergency matter shall be given in the manner required by law for such an emergency pursuant to Government Code Section 54956.5.
7. "Continued Business" Items carried over from a prior agenda of a meeting occurring less than 11 days earlier, ~~as uncompleted items.~~
8. "Old Business" Items carried over from a prior agenda of a meeting ~~as uncompleted items occurring~~ occurring more than 11 days earlier.

**Commented [NML24]:** Per Open Government Ordinance

**C. Procedure for Bringing Matters Before City Council**

**1. Persons Who Can Place Matters on the Agenda.**

Matters may be placed on the agenda by ~~the Mayor or any Councilmember~~ council member, the City Manager, the Auditor, or any board/commission/committee created by the City Council. All items, other than board and commission items shall be subject to review by ~~an the Agenda Committee~~ Agenda & Rules Committee, which shall be a standing committee of the City Council. ~~The Agenda Committee shall consist of the Mayor and two councilmembers, nominated by the Mayor and approved by the Council. A third council member, nominated by the Mayor and approved by the Council, will serve as an alternate on the Committee in the event that an Agenda Committee member cannot attend a meeting.~~

**Commented [NML25]:** Superseded by policy committee section below

The ~~Agenda Committee~~ Agenda & Rules Committee shall meet 15 days prior to each City Council meeting and shall approve the agenda of that City Council meeting. ~~Pursuant to BMC Section 1.04.080, if the 15<sup>th</sup> day prior to the Council meeting falls on a holiday, the Committee will meet the next business day.~~ The ~~Agenda Committee~~ Agenda & Rules Committee packet, including a draft agenda and Councilmember, Auditor, and Commission reports shall be distributed by 5:00 p.m. 4 days before the ~~Agenda Committee~~ Agenda & Rules Committee meeting.

**Commented [NML26]:** Clarification

The ~~Agenda Committee~~ Agenda & Rules Committee shall have the powers set forth below.

- a) **Items Authored by the Mayor, a Councilmember, or the Auditor.** As to items authored by the Mayor, a Councilmember, or the Auditor, the ~~Agenda Committee~~ Agenda & Rules Committee shall review the item and may recommend that the matter be referred to a commission, to the City Manager, a Policy Committee, or back to the author for adherence to required form or for additional analysis as required in Section III.B.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

The author of a "referred" item must inform the City Clerk within 24 hours of the adjournment of the ~~Agenda Committee~~ Agenda & Rules Committee meeting whether ~~he or she~~ they prefers to: 1) hold the item for a future

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meeting pending modifications as suggested by the Committee; 2) have the item appear on the Council agenda under consideration as originally submitted; 3) pull the item completely; or 4) re-submit the item with revisions as requested by the ~~Agenda Committee~~ Agenda & Rules Committee within 24 hours of the adjournment of the Agenda Committee Agenda & Rules Committee meeting for the Council agenda under consideration. Option 2 is not available for items eligible to be referred to a Policy Committee.

**Commented [NML27]:** Current practice

**Commented [NML28]:** Per policy committee regulations

In the event that the City Clerk does not receive guidance from the author of the referred item within 24 hours of the ~~Agenda Committee~~ Agenda & Rules Committee's adjournment, the recommendation of the ~~Agenda Committee~~ Agenda & Rules Committee will take effect.

Items held for a future meeting to allow for modifications will be placed on the next available Council meeting agenda at the time that the revised version is submitted to the City Clerk. If changes made to the item extend beyond the scope of the Agenda Committee referral recommendations, the item must be re-submitted as a new Council item.

**Commented [NML29]:** Unecessary. If the item is being submitted for a future meeting, it is a "new" item.

~~For authors of referred items that select option 2) above, the referred item will automatically be placed at the end of the Action Calendar under the heading "Referred Items". The Agenda Committee shall specify the reason for the referral from the categories listed below. This reason shall be printed with the item on the agenda.~~

**Commented [NML30]:** No longer needed with the policy committee system.

- Reason 1— Significant Lack of Background or Supporting Information
- Reason 2— Significant Grammatical or Readability Issues

b) **Items Authored by the City Manager.** The ~~Agenda Committee~~ Agenda & Rules Committee shall review agenda descriptions of items authored by the City Manager. The Committee can recommend that the matter be referred to a commission or back to the City Manager for adherence to required form, additional analysis as required in Section III.B.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

If the City Manager determines that the matter should proceed notwithstanding the ~~Agenda Committee~~ Agenda & Rules Committee's action, it will be placed on the agenda as directed by the Manager. All City Manager items placed on the Council agenda against the referral recommendation of the Agenda Committee Agenda & Rules Committee or revised items that have not been resubmitted to the Agenda Committee will automatically be placed on the Action Calendar.

**Commented [NML31]:** Inconsistent with current practices. Staff reports are still in review and are not printed in the Agenda & Rules Committee packet.

c) **Items Authored by Boards and Commissions.** Council items submitted by boards and commissions are subject to City Manager review and must follow procedures and timelines for submittal of reports as described in the

Commissioners' Manual. The content of commission items is not subject to review by the ~~Agenda Committee~~Agenda & Rules Committee.

- i) For a commission item that does not require a companion report from the City ~~Mananger~~Manager, the ~~Agenda Committee~~Agenda & Rules Committee may act on an agendized commission report in the following manner:
  - 1. Move a commission report from the Consent Calendar to the Action Calendar or from the Action Calendar to the Consent Calendar.
  - 2. Re-schedule the commission report to appear on one of the next three regular Council meeting agendas that occur after the regular meeting under consideration. Commission reports submitted in response to a Council referral shall receive higher priority for scheduling.
  - 3. Allow the item to proceed as submitted.
- ii) For any commission report that requires a companion report, the ~~Agenda Committee~~Agenda & Rules Committee ~~may~~will schedule the item on a Council agenda. ~~The Committee must schedule the the~~commission item for a meeting occurring not sooner than 60 days and not later than 120 days from the date of the meeting under consideration by the ~~Agenda Committee~~Agenda & Rules Committee. A commission report submitted with a complete companion report may be scheduled pursuant to subparagraph c.i. above.
- d) The ~~Agenda Committee~~Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in Chapter III, Section E ~~of the Rules of Procedures and Order~~.

## 2. Scheduling Public Hearings Mandated by State, Federal, or Local Statute.

The City Clerk may schedule a public hearing at an available time and date in those cases where State, Federal or local statute mandates the City Council hold a public hearing.

## 3. Submission of Agenda Items.

- a) **City Manager Items.** Except for Continued Business and Old Business, as a condition to placing an item on the agenda, agenda items from departments, including agenda items from commissions, shall be furnished to the City Clerk at a time established by the City Manager.
- b) **Council and Auditor Items.** The deadline for reports submitted by the Auditor, Mayor and City Council is 5:00 p.m. on Monday, 22 days before each Council meeting.

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- c) **Time Critical Items.** A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or ~~Council member~~ council member is received by the City Clerk after established deadlines and is not included on the ~~Agenda Committee~~ Agenda & Rules Committee's published agenda.

The author of the report shall bring any reports submitted as Time Critical to the meeting of the ~~Agenda Committee~~ Agenda & Rules Committee. Time Critical items must be accompanied by complete reports and statements of financial implications. If the ~~Agenda Committee~~ Agenda & Rules Committee finds the matter to meet the definition of Time Critical, the ~~Agenda Committee~~ Agenda & Rules Committee may place the matter on the Agenda on either the Consent or Action Calendar.

- d) The City Clerk may not accept any agenda item after the adjournment of the ~~Agenda Committee~~ Agenda & Rules Committee meeting, except for items carried over by the City Council from a prior City Council meeting occurring less than 11 days earlier, which may include supplemental or revised reports, and reports concerning actions taken by boards and commissions that are required by law or ordinance to be presented to the Council within a deadline that does not permit compliance with the agenda timelines in BMC Chapter 2.06 or these rules.

4. **Submission of Supplemental and Revised Agenda Material.**

Berkeley Municipal Code Section 2.06.070 allows for the submission of supplemental and revised agenda material. Supplemental and revised material cannot be substantially new or only tangentially related to an agenda item. Supplemental material must be specifically related to the item in the Agenda Packet. Revised material should be presented as revised versions of the report or item printed in the Agenda Packet. Supplemental and revised material may be submitted for consideration as follows:

- a) Supplemental and revised agenda material shall be submitted to the City Clerk no later than 5:00 p.m. seven calendar days prior to the City Council meeting at which it is to be considered. Supplemental and revised items that are received by the deadline shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. five calendar days prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Council-member evaluation.
- b) Supplemental and revised agenda material submitted to the City Clerk after 5:00 p.m. seven days before the meeting and no later than 12:00 p.m. one day prior to the City Council meeting at which it is to be considered shall be distributed to Council in a supplemental reports packet and posted to

Commented [NML32]: Per Open Government Ordinance

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the City's website no later than 5:00 p.m. one day prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Council evaluation.

a)–

b)c) After ~~5~~12:00 p.m. ~~seven~~–one calendar days prior to the meeting, supplemental or revised reports may be submitted for consideration by delivering a minimum of 42 copies of the supplemental/revised material to the City Clerk for distribution at the meeting. Each copy must be accompanied by a completed supplemental/revised material cover page, using the form provided by the City Clerk. Revised reports must reflect a comparison with the original item using track changes formatting. The material may be considered only if the City Council, by a two-thirds roll call vote, makes a factual determination that the good of the City clearly outweighs the lack of time for citizen review or City Council–member evaluation of the material. Supplemental and revised material must be distributed and a factual determination made prior to the commencement of public comment on the agenda item in order for the material to be considered.

#### 5. Scheduling a Presentation.

Presentations from staff are either submitted as an Agenda Item or are requested by the City Manager. Presentations from outside agencies and the public are coordinated with the Mayor's Office. The Agenda & Rules Committee may adjust the schedule of presentations as needed to best manage the Council Agenda.

~~Any request for a presentation to the Council will be submitted as an agenda item and follow the time lines for submittal of agenda reports. The agenda item should include general information regarding the purpose and content of the presentation; information on the presenters; contact information; and the length of the presentation. The request may state a preference for a date before the Council. The Agenda Committee will review the request and recommend a presentation date and allotted time based on the Council's schedule.~~

~~The City Clerk will notify the presenters of the date and time of the presentation and will coordinate use of any presentation equipment and receipt of additional written material.~~

**Commented [NML33]:** Reflects current practice, which is much less formal than deleted text.



**D. Packet Preparation and Posting****1. Preparation of the Packet.**

Not later than the thirteenth day prior to said meeting, the City Clerk shall prepare the packet, which shall include the agenda plus all its corresponding duplicated agenda items. No item shall be considered if not included in the packet, except as provided for in Section III.C.4 and Section III.D.4. ~~Reports carried over, as Continued Business or Old Business need not be reproduced again.~~

Commented [NML34]: Inconsistent with OGO

**2. Distribution and Posting of Agenda.**

- a) The City Clerk shall post each agenda of the City Council regular meeting no later than 11 days prior to the meeting and shall post each agenda of a special meeting at least 24 hours in advance of the meeting in the official bulletin board. The City Clerk shall maintain an affidavit indicating the location, date and time of posting each agenda.
- b) The City Clerk shall also post agendas and annotated agendas of all City Council meetings and notices of public hearings on the City's website.
- c) No later than 11 days prior to a regular meeting, copies of the agenda shall be mailed by the City Clerk to any resident of the City of Berkeley who so requests in writing. Copies shall also be available free of charge in the City Clerk Department.

**3. Distribution of the Agenda Packet.**

The Agenda Packet shall consist of the Agenda and all supporting documents for agenda items. No later than 11 days prior to a regular meeting, the City Clerk shall:

- a) distribute the Agenda Packet to each member of the City Council;
- b) post the Agenda Packet to the City's website;
- c) place copies of the Agenda Packet in viewing binders in the office of the City Clerk and in the main branch of the Berkeley Public Library; and
- d) make the Agenda Packet available to members of the press.

**4. Failure to Meet Deadlines.**

- a) The City Clerk shall not accept any agenda item or revised agenda item after the deadlines established.
- b) Matters not included on the published agenda may be discussed and acted upon as otherwise authorized by State law or providing the Council finds one of the following conditions is met:
  - A majority of the Council determines that the subject meets the criteria of "Emergency" as defined in Section III.B.5.
  - Two thirds of the Council determines that there is a need to take immediate action and that the need for action came to the attention

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of the City subsequent to the posting of the agenda as required by law.

- c) Matters listed on the printed agenda but for which supporting materials are not received by the City Council on the eleventh day prior to said meeting as part of the agenda packet, shall not be discussed or acted upon.

#### E. **Agenda Sequence and Order of Business**

The Council agenda for a regular business meeting is to be arranged in the following order:

1. Preliminary Matters: (Ceremonial, Comments from the City Manager, Comments from the City Auditor, Non-Agenda Public Comment)
2. Consent Calendar
3. Action Calendar
  - a) Appeals
  - b) Public Hearings
  - c) Continued Business
  - d) Old Business
  - e) New Business
  - ~~f) Referred Items~~
4. Information Reports
- 4-5. Non-Agenda Public Comment
- 5-6. Adjournment Communications
- 6-7. Communications Adjournment

Action items may be reordered at the discretion of the Chair with the consent of Council.

The ~~Agenda Committee~~ Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in this section.

#### F. **Closed Session Documents**

This section establishes a policy for the distribution of, and access to, confidential closed session documents by the Mayor and Members of the City Council.

1. Confidential closed session materials shall be kept in binders numbered from one to nine and assigned to the Mayor (#9) and each Councilmember (#1 to #8 by district). The binders will contain confidential closed session materials related to Labor Negotiations, Litigation, and Real Estate matters.
2. The binders will be maintained by City staff and retained in the Office of the City Attorney in a secure manner. City staff will bring the binders to each closed

Commented [NML35]: Edits to reflect current order

session for their use by the Mayor and Councilmembers. At other times, the binders will be available to the Mayor and Councilmembers during regular business hours for review in the City Attorney's Office. The binders may not be removed from the City Attorney's Office or the location of any closed session meeting by the Mayor or Councilmembers. City staff will collect the binders at the end of each closed session meeting and return them to the City Attorney's Office.

3. Removal of confidential materials from a binder is prohibited.
4. Duplication of the contents of a binder by any means is prohibited.
5. Confidential materials shall be retained in the binders for at least two years.
6. This policy does not prohibit the distribution of materials by staff to the Mayor and Councilmembers in advance of a closed session or otherwise as needed, but such materials shall also be included in the binders unless it is impracticable to do so.

#### G. Regulations Governing City Council Policy Committees

##### **1A. Legislative Item Process**

All agenda items begin with submission to the ~~Agenda Committee~~ Agenda & Rules Committee.

##### Full Council Track

Items under this category are exempt from ~~Agenda Committee~~ Agenda & Rules Committee discretion to refer them to a ~~Policy Committee~~. Items in this category may be submitted for the agenda of any scheduled regular meeting pursuant to established deadlines (same as existing deadlines). Types of Full Council Track items are listed below.

- a. Items submitted by the City Manager and City Auditor
- b. Items submitted by Boards and Commissions
- c. Resolutions on Legislation and Electoral Issues relating to Outside Agencies/Jurisdictions
- d. Position Letters and/or Resolutions of Support/Opposition
- e. Donations from the Mayor and Councilmember District Office Budgets
- f. Referrals to the Budget Process
- g. Proclamations
- h. Sponsorship of Events
- i. Information Reports

**Commented [NML36]:** Regulations from the Policy Committee resolution are inserted in red text; changes to the resolution language are in track changes

**Commented [NML37]:** Clarification

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j. Presentations from Outside Agencies and Organizations

k. Ceremonial Items

k.l. Committee and Regional Body Appointments

**Commented [NML38]:** Standard administrative item

~~Notwithstanding the exemption stated above, the Agenda Committee, at its discretion, may route a Full Council Track item submitted by a Councilmember to a policy committee if the item has 1) a significant lack of background or supporting information, or 2) significant grammatical or readability issues.~~

**Commented [NML39]:** Change made at September 16, 2019 Agenda & Rules Committee; integrated into next paragraph

~~The Agenda Committee~~Agenda & Rules Committee has discretion to determine if an item submitted by the Mayor or a Councilmember falls under a Full Council Track exception or if it will be processed as a Policy Committee Track item. If an item submitted by the Mayor or a Councilmember has 1) a significant lack of background or supporting information, or 2) significant grammatical or readability issues the Agenda & Rules committee may refer the item to a Policy Committee.

Policy Committee Track

~~Items submitted by the Mayor or Councilmembers with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts will go first to the Agenda Committee~~Agenda & Rules Committee on a draft City Council agenda (on a list).

**Commented [NML40]:** Clarification

~~The Agenda Committee~~Agenda & Rules Committee must refer an item to a Ppolicy Ccommittee at the first meeting that the item appears before the Agenda-CommitteeAgenda & Rules Committee. The Agenda-CommitteeAgenda & Rules Committee may only assign the item to a single Ppolicy Ccommittee.

~~For a Policy Committee Track item, the Agenda Committee~~Agenda & Rules Committee, at its discretion, may either route item directly to 1) the agenda currently under consideration, 2) one of the next three full Council Agendas (based on completeness of the item, lack of potential controversy, minimal impacts, etc.), or 3) to a Ppolicy Ccommittee.

Time Critical Track

~~A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the Mayor or Councilmember~~council member is received by the City Clerk after established deadlines and is not included on the Agenda-CommitteeAgenda & Rules Committee's published agenda.

~~The Agenda Committee~~Agenda & Rules Committee retains final discretion to determine the time critical nature of an item.

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- a) Time Critical items submitted on the Full Council Track deadlines, that would otherwise be assigned to the Policy Committee Track, may bypass Ppolicy Ccommittee review if determined to be time critical. If such an item is deemed not to be time critical, it ~~may~~ will be referred to a Policy Committee.
- b) Time Critical items on the Full Council Track or Policy Committee Track that are submitted at a meeting of the ~~Agenda Committee~~ Agenda & Rules Committee may go directly on a council agenda if determined to be time critical.

**B2. Council Referrals to Committees**

The full Council may refer any agenda item to a Ppolicy Ccommittee by majority vote.

**3. Participation Rules for Policy Committees Pursuant to the Brown Act**

- a. The quorum of a three-member Ppolicy Ccommittee is always two members. A majority vote of the committee (two 'yes' votes) is required to pass a motion.
- b. Two Policy Committee members may not discuss any item that has been referred to the Policy Committee outside of an open and noticed meeting.
- c. Notwithstanding paragraph (b) above, two members of a Policy Committee may co-author an item provided that one of the authors will not serve as a committee member for consideration of the item, and shall not participate in the committee's discussion of, or action on the item. For purposes of the item, the appointed alternate will serve as a committee member in place of the non-participating co-author.
- d. All three members of a Policy Committee may not be co-authors of an item that will be heard by the committee.
- e. Only one co-author who is not a member of the Policy Committee may attend the committee meeting to participate in discussion of the item.
- f. If two or more non-committee members are present for any item or meeting, then all non-committee members may act only as observers and may not participate in discussion. If an author is present to participate in the discussion of their item, no other Councilmembers, nor the Mayor, may attend as observers.
- g. An item may be considered by only one Policy Committee before it goes to the full Council.

**Commented [NML41]:** New requirements due to re-evaluation of Brown Act applicability to policy committees

**C4. Functions of the Committees**

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Committees shall have the following qualities/components:

- a. All committees are Brown Act bodies with noticed public meetings and public comment. Regular meeting agendas will be posted at least 72 hours in advance of the meeting.
- b. Minutes shall be available online.
- c. Committees shall adopt regular meeting schedules, generally meeting once or twice per month; special meetings may be called when necessary, in accordance with the Brown Act.
- d. Generally, meetings will be held at 2180 Milvia Street in publicly accessible meeting rooms that can accommodate the committee members, public attendees, and staff.
- e. Members are recommended by the Mayor and approved by the full Council no later than January 31 of each year. Members continue to serve until successors are appointed and approved.
- f. Chairs are elected by the Committee at the first regular meeting of the Committee after the annual approval of Committee members by the City Council. In the absence of the Chair, the committee member with the longest tenure on the Council will preside.
- f.g. ~~The Chair, or a quorum of the Committee may call a meeting or cancel a meeting of the Policy Committee.~~
- g.h. Committees will review items for completeness in accordance with Section III.B.2 of the City Council Rules of Procedure and Order and alignment with Strategic Plan goals.
- i. Reports leaving a Policy Committee must adequately include budget implications, administrative feasibility, basic legal concerns, and staff resource demands in order to allow for informed consideration by the full Council.
- h.j. ~~Per Brown Act regulations, any such materials must be direct revisions or supplements to the item that was published in the agenda packet.~~

**Commented [NML42]:** Clarification of authority; reflects Charter

**Commented [NML43]:** Added for transparency and to avoid violations arising from submission of materials only tangentially related to the agenda items

Items referred to a Policy Committee from the ~~Agenda Committee~~ Agenda & Rules Committee or from the City Council must be agendaized for a committee meeting within 60 days of the referral date.

Within 120 days of the referral date, the committee must vote to either (1) accept the author's request that the item remain in committee until a date certain (more than one extension may be requested by the author); or (2) send the item to the ~~Agenda Committee~~ Agenda & Rules Committee to be placed on a Council Agenda with a Committee recommendation consisting of one of the four options listed below.

- 1. Positive Recommendation (recommending Council pass the item as proposed),
- 2. Qualified Positive Recommendation (recommending Council pass the item with some changes),

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- 3. Qualified Negative Recommendation (recommending Council reject the item unless certain changes are made) or
- 4. Negative Recommendation (recommending the item not be approved).

The Policy Committee's ~~will include their~~ recommendation will be included in a new separate section of the report template for that purpose.

A Policy Committee may not refer an item under its consideration to a city board or commission.

**Commented [NML44]:** Clarification of authority. Commissions are advisory to the Full Council

The original Council author of an item referred to a Policy Committee is responsible for revisions and resubmission of the item back to the full Council. Items originating from the City Manager are revised and submitted by the appropriate city staff. Items from Commissions are revised and resubmitted by the members of the Policy Committee. Items and Recommendations originating from the Policy Committee are submitted to the agenda process by the members of the committee.

**Commented [NML45]:** Clarification of responsibility for shepherding items through process

A policy committee may refer an item to another policy committee for review. The total time for review by all policy committees is limited to the initial 120-day deadline.

**Commented [NML46]:** Inconsistent with Brown Act – review by two committees would result in an illegal serial meeting

If a Policy Committee does not take final action by the 120-day deadline, the item is returned to the Agenda Committee Agenda & Rules Committee and appears on the next available Council agenda. The Agenda Committee Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the next Council agenda. ~~Items appearing on a City Council agenda due to lack of action by a Policy Committee may not be referred to a Policy Committee and must remain on the full Council agenda for consideration.~~

**Commented [NML47]:** Closes "endless loop" loophole

Non-legislative or discussion items may be added to the Policy Committee agenda by members of the Committee with the concurrence of a quorum of the Committee. These items are not subject to the 120-day deadline for action.

**Commented [NML48]:** Clarification

Once the item is voted out of a Policy Committee, ~~the final item will be resubmitted to the agenda process by the author, and~~ it will return to the Agenda Committee Agenda & Rules Committee on the next available agenda. The Agenda Committee Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the following Council agenda. Only items that receive a Positive Recommendation can be placed on the Consent Calendar.

**Commented [NML49]:** Clarification

The lead author may request expedited committee review for items referred to a committee. Criteria for expedited review is generally to meet a deadline for action (e.g. grant deadline, specific event date, etc.). If the committee agrees to the request, the

III. AGENDA

deadline for final committee action is 45 days from the date the committee approves expedited review, ~~item first appeared on the committee agenda.~~

**5D. Number and Make-up of Committees**

Six committees are authorized, each comprised of three Councilmembers ~~with a fourth Councilmember appointed as an alternate.~~ Each Councilmember and the Mayor will serve on two committees. The Mayor shall be a member of the Agenda and Rules Committee. The committees are as follows:

1. Agenda and Rules Committee
2. Budget and Finance Committee
3. Facilities, Infrastructure, Transportation, Environment, and Sustainability
4. Health, Life Enrichment, Equity, and Community
5. Land Use, Housing, and Economic Development
6. Public Safety

~~The Agenda Committee~~ Agenda & Rules Committee shall establish the Ppolicy ~~Ccommittee~~ topic groupings, and may adjust said groupings periodically thereafter in order to evenly distribute expected workloads of various committees.

All ~~standing~~ Policy Committees of the City Council are considered “legislative bodies” under the Brown Act and must conduct all business in accordance with the Brown Act.

**6E. Role of City Staff at Committee Meetings**

Committees will be staffed by appropriate City Departments and personnel. As part of the committee process, staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item. Staff analysis at the Policy Committee level is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

**Commented [NML50]:** This will allow two members of a policy committee to co-author an item. The Alternate will substitute for one of the co-authors while the item is heard by the policy committee.

**Commented [NML51]:** Clarification



## IV. CONDUCT OF MEETING

### A. Comments from the Public

Public comment will be taken in the following order:

- An initial ten-minute period of public comment on non-agenda items, after the commencement of the meeting and immediately after Ceremonial Matters and City Manager Comments.
- Public comment on the Consent and Information Calendars.
- Public comment on action items, appeals and/or public hearings as they are taken up under procedures set forth in the sections governing each below.
- Public comment on non-agenda items from any speakers who did not speak during the first round of non-agenda public comment at the beginning of the meeting.

Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. A speaker wishing to yield their time shall stand identify themselves, shall be recognized by the chair, and announce publicly their intention to yield their time. Disabled persons shall have priority seating in the front row of the public seating area.

A member of the public may only speak once at public comment on any single item, unless called upon by the Mayor or a Councilmember to answer a specific inquiry.

#### 1. Public Comment on Consent Calendar and Information Items.

The Council will first determine whether to move items on the agenda for “Action” or “Information” to the “Consent Calendar,” or move “Consent Calendar” items to “Action.” Items that remain on the “Consent Calendar” are voted on in one motion as a group. “Information” items are not discussed or acted upon at the Council meeting unless they are moved to “Action” or “Consent.”

The Council will then take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. A speaker may only speak once during the period for public comment on Consent Calendar and Information items. No additional items can be moved onto the Consent Calendar once public comment has commenced.

At any time during, or immediately after, public comment on Information and Consent items, the Mayor or any Councilmember may move any Information or Consent item to “Action.” Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

## IV. CONDUCT OF MEETING

**2. Public Comment on Action Items.**

After the initial ten minutes of public comment on non-agenda items and public comment and action on consent items, the public may comment on each remaining item listed on the agenda for action as the item is taken up.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

This procedure also applies to public hearings except those types of public hearings specifically provided for in this section.

**3. Appeals Appearing on Action Calendar.**

With the exception of appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission, appeals from decisions of City commissions appear on the "Action" section of the Council Agenda. Council determines whether to affirm the action of the commission, set a public hearing, or remand the matter to the commission. Appeals of proposed special assessment liens shall also appear on the "Action" section of the Council Agenda. Appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission are automatically set for public hearing and appear on the "Public Hearings" section of the Council Agenda.

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have seven minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment. In the case of an appeal of proposed special assessment lien, the appellant shall have seven minutes to comment.

After the conclusion of the seven-minute comment periods, members of the public may comment on the appeal. Comments from members of the public regarding appeals shall be limited to one minute per speaker. Any person that addressed the Council during one of the seven-minute periods may not speak again during the public comment period on the appeal. Speakers may yield their time to one other speaker, however, no speaker shall have more than two minutes. Each side shall be informed of this public comment procedure at the time the Clerk notifies the parties of the date the appeal will appear on the Council agenda.

**Commented [NML52]:** Reflects existing due process standards

**4. Public Comment on Non Agenda Matters.**

Immediately following Ceremonial Matters and the City Manager Comments and prior to the Consent Calendar, persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting.

The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.

Persons submitting speaker cards are not required to list their actual name, however they must list some identifying information or alternate name in order to be called to speak.

For the second round of public comment on non-agenda matters, the Presiding Officer retains the authority to limit the number of speakers by subject. The Presiding Officer will generally request that persons wishing to speak, line up at the podium to be recognized to determine the number of persons interested in speaking at that time. Each speaker will be entitled to speak for two minutes each unless the Presiding Officer determines that one-minute is appropriate given the number of speakers.

~~According to the current Rules and Procedures~~Pursuant to this document, no Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items. If any agenda item remains unfinished at 11:00 p.m. or the expiration of any extension after 11:00 p.m., it will be referred to the ~~Agenda Committee~~**Agenda & Rules Committee** for scheduling pursuant to Chapter II, Section F. In that event, the meeting shall be automatically extended for up to fifteen (15) minutes for public comment on non-agenda items.

**5. Ralph M. Brown Act Pertaining to Public Comments.**

The "Brown Act" prohibits the Council from discussing or taking action on an issue raised during Public Comment, unless it is specifically listed on the agenda. However, the Council may refer a matter to the City Manager.

**B. Consent Calendar**

There shall be a Consent Calendar on all regular meeting agendas on which shall be included those matters which the Mayor, Councilmembers, boards, commissions, City Auditor and City Manager deem to be of such nature that no debate or inquiry will be necessary at the Council meetings. Ordinances for second reading may be included in the Consent Calendar.

## IV. CONDUCT OF MEETING

It is the policy of the Council that ~~the Mayor or C~~councilmembers wishing to ask questions concerning Consent Calendar items should ask questions of the contact person identified prior to the Council meeting so that the need for discussion of consent calendar items can be minimized.

Consent Calendar items may be moved to the Action Calendar by the Council. Action items may be reordered at the discretion of the Chair with the consent of Council.

**C. Information Reports Called Up for Discussion**

Reports for Information designated for discussion at the request of ~~the Mayor or any Councilmember~~council member shall be added to the appropriate section of ~~the Reports for~~ Action Calendar and may be acted upon at that meeting or carried over as pending business until discussed or withdrawn. The agenda will indicate that at the request of ~~Mayor or any Councilmember~~council member a Report for Information may be acted upon by the Council.

**D. Communications**

Letters from the public will not appear on the Council agenda as individual matters for discussion but will be distributed as part of the Council agenda packet with a cover sheet identifying the author and subject matter and will be listed under "Communications." \_

All such communications must have been received by the City Clerk no later than 5:00 p.m. fifteen days prior to the meeting in order to be included on the agenda.

In instances where an individual forwards more than three pages of email messages not related to actionable items on the Council agenda to the Council to be reproduced in the "Communications" section of the Council packet, the City Clerk will not reproduce the entire email(s) but instead refer the public to the City's website or a hard copy of the email(s) on file in the City Clerk Department.

All communications shall be simply deemed received without any formal action by the Council. ~~The Mayor or Aa Councilmember~~council member may refer a communication to ~~staff~~the City Manager for action, if appropriate, or prepare a consent or action item for placement on a future agenda.

Communications related to an item on the agenda that are received after 5:00 p.m. fifteen days before the meeting are published as provided for in Chapter III.C.4.

Commented [NML53]: Clarification per OGO

**E. Public Hearings for Land Use, Zoning, Landmarks, and Public Nuisance Matters**

The City Council, in setting the time and place for a public hearing, may limit the amount of time to be devoted to public presentations. Staff shall introduce the public hearing item and present their comments.

Following any staff presentation, each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Members shall also submit a report of such contacts in writing prior to the commencement of the hearing. Such reports shall include a brief statement describing the name, date, place, and content of the contact. Written reports shall be available for public review

IV. CONDUCT OF MEETING

in the office of the City Clerk prior to the meeting and placed in a file available for public viewing at the meeting.

This is followed by five-minute presentations each by the appellant and applicant. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have five minutes to comment and the applicant shall have five minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have five minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have five minutes to comment and the persons supporting the action of the board or commission on appeal shall have five minutes to comment. In the case of a public nuisance determination, the representative(s) of the subject property shall have five minutes to present.

Commented [NML54]: Same as above

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Any person that addressed the Council during one of the five-minute periods may not speak again during the public comment period on the appeal. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

Commented [NML55]: Current practice. Matches existing language for appeals above.

**F. Work Sessions**

The City Council may schedule a matter for general Council discussion and direction to staff. Official/formal action on a work session item will be scheduled on a subsequent agenda under the Action portion of the Council agenda.

In general, public comment at Council work sessions will be heard after the staff presentation, for a limited amount of time to be determined by the Presiding Officer.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

After Council discussion, if time permits, the Presiding Officer may allow additional public comment. During this time, each speaker will receive one minute. Persons who spoke during the prior public comment time may be permitted to speak again.

**G. Public Discussions**

Commented [NML56]: Unnecessary. A "public discussion" must still occur at a noticed meeting which is regulated by the Brown Act, OGO, and this document.

~~The City Council may, from time to time, schedule a matter for public discussion and may limit the amount of time to be devoted to said discussions. At the time the public discussion is scheduled, the City Council may seek comment from others if they so determine.~~

#### H. Protocol

People addressing the Council may first give their name in an audible tone of voice for the record. All remarks shall be addressed to the Council as a body and not to any member thereof. No one other than the Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked of a Councilmember~~council member~~ except through the Presiding Officer.

## V. PROCEDURAL MATTERS

### A. Persons Authorized to Sit at Tables

No person, except City officials, their representatives and representatives of boards and commissions shall be permitted to sit at the tables in the front of the Council Chambers without the express consent of the Council.

### B. Decorum

No person shall disrupt the orderly conduct of the Council meeting. Prohibited disruptive behavior includes but is not limited to shouting, making disruptive noises, such as boos or hisses, creating or participating in a physical disturbance, speaking out of turn or in violation of applicable rules, preventing or attempting to prevent others who have the floor from speaking, preventing others from observing the meeting, entering into or remaining in an area of the meeting room that is not open to the public, or approaching the Council Dais without consent. Any written communications addressed to the Council shall be delivered to the City Clerk for distribution to the Council. ~~message to or contact with any member of the Council while the Council is in session shall be through the City Clerk.~~

**Commented [NML57]:** Clarification that Clerk forwards written communications only, not verbal messages

### C. Enforcement of Decorum

When the public demonstrates a lack of order and decorum, the presiding officer shall call for order and inform the person(s) that the conduct is violating the Rules of Order and Procedure and provide a warning to the person(s) to cease the disruptive behavior. Should the person(s) fail to cease and desist the disruptive conduct, the presiding officer may call a five (5) minute recess to allow the disruptions to cease.

If the meeting cannot be continued due to continued disruptive conduct, the presiding officer may have any law enforcement officer on duty remove or place any person who violates the order and decorum of the meeting under arrest and cause that person to be prosecuted under the provisions of applicable law.

### D. Precedence of Motions

When a question is before the Council, no motion shall be entertained except:

1. To adjourn,
2. To fix the hour of adjournment,
3. To lay on the table,
4. For the previous question,
5. To postpone to a certain day,
6. To refer,
7. To amend,
8. To substitute, and

## V. PROCEDURAL MATTERS

## 9. To postpone indefinitely.

These motions shall have precedence in order indicated. Any such motion, except a motion to ~~adjourn~~, amend, or substitute, shall be put to a vote without debate.

**Commented [NML58]:** Motion to adjourn is not debatable pursuant to Roberts Rules

**E. Roberts Rules of Order**

Roberts Rules of Order have been adopted by the City Council and apply in all cases except the precedence of motions in Section V.D shall ~~supercedes~~supersede.

**F. Rules of Debate****1. Presiding Officer May Debate.**

The presiding officer may debate from the chair; subject only to such limitations of debate as are by these rules imposed on all members, and shall not be deprived of any of the rights and privileges as a member of the Council by reason of that person acting as the presiding officer.

**2. Getting the Floor - Improper References to be avoided.**

Members desiring to speak shall address the Chair, and upon recognition by the presiding officer, shall confine themselves to the question under debate.

**3. Interruptions.**

A member, once recognized, shall not be interrupted when speaking unless it is to call a member to order, or as herein otherwise provided. If a member, while speaking, were called to order, that member shall cease speaking until the question of order is determined, and, if in order, the member shall be permitted to proceed.

**4. Privilege of Closing Debate.**

The ~~Mayor or Councilmember~~council member moving the adoption of an ordinance or resolution shall have the privilege of closing the debate. When a motion to call a question is passed, the ~~Mayor or Councilmember~~council member moving adoption of an ordinance, resolution or other action shall have three minutes to conclude the debate.

**5. Motion to Reconsider.**

A motion to reconsider any action taken by the Council may be made only during the same session on the day such action is taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made ~~and seconded~~ by ~~a member one of~~ the prevailing sides, and may be made at any time and have precedence over all other motions or while a member has the floor; it shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same or other motion at a subsequent meeting of the Council.

**Commented [NML59]:** Must happen at the same meeting, not just the same day.

**Commented [NML60]:** Inconsistent with Roberts Rules. Requiring a seconder to be on the prevailing side could infringe on a single member's right to reconsider their vote.



**6. Repeal or Amendment of Action Requiring a Vote of Two-Thirds of Council, or Greater.**

Any ordinance or resolution which is passed and which, as part of its terms, requires a vote of two-thirds of the Council or more in order to pass a motion pursuant to such an ordinance or resolution, shall require the vote of the same percent of the Council to repeal or amend the ordinance or resolution.

## V. PROCEDURAL MATTERS

**G. Debate Limited**

1. ~~Except as provided in Section V.F.b hereof, c~~Consideration of each matter coming before the Council shall be limited to 20 minutes from the time the matter is first taken up, at the end of which period consideration of such matter shall terminate and the matter shall be dropped to the foot of the agenda, immediately ahead of Good of the City Information Reports; provided that either of the following two not debatable motions shall be in order:
  - a) A motion to extend consideration which, if passed, shall commence a new twenty-minute period for consideration; or
  - b) If there are one or more motions on the floor, the previous question, which, if passed, shall require an immediate vote on pending motions.
2. The time limit set forth in subparagraph ~~a.1~~ hereof shall not be applicable to any public hearing, public discussion, Council discussion or other especially set matter for which a period of time has been specified (in which case such specially set time shall be the limit for consideration) or which by applicable law (e.g. hearings of appeals, etc.), the matter must proceed to its conclusion.
3. In the interest of expediting the business of the City, failure by the Chair or any ~~Councilmember~~~~council member~~ to call attention to the expiration of the time allowed for consideration of a matter, by point of order or otherwise, shall constitute unanimous consent to the continuation of consideration of the matter beyond the allowed time; provided, however, that the Chair or any ~~Councilmember~~~~council member~~ may at any time thereafter call attention to the expiration of the time allowed, in which case the Council shall proceed to the next item of business, unless one of the motions referred to in ~~subparagraph~~~~Section a.4D~~ hereof is made and is passed.

**H. Motion to Lay on Table**

A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the consideration of the subject may be resumed only upon a motion of a member voting with the majority and with consent of two-thirds of the members present.

**I. Division of Question**

If the question contains two or more propositions, which can be divided, the presiding officer may, and upon request of a member shall, divide the same.

**J. Addressing the Council**

~~Any person desiring to address the Council shall first secure the permission of the presiding officer to do so.~~ Under the following headings of business, unless the presiding officer rules otherwise, any ~~qualified and~~ interested person shall have the right to address the Council in accordance with the following conditions and upon obtaining recognition by the presiding officer:

1. **Written Communications.**

**Commented [NML61]:** Exactly restated later in same paragraph

**Commented [NML62]:** Not sure what could be meant by "qualified"

## V. PROCEDURAL MATTERS

Interested parties or their authorized representatives may address the Council by in the form of written communications in regard to matters of concern to them by submitting their written communications at the meeting, or prior to the meeting pursuant to the deadlines in Chapter III.C.4.

~~Communications pertaining to an item on the agenda which are received by the City Clerk after the deadline for inclusion in the Council Agenda packet and through 5:00 p.m. seven calendar days prior to the meeting shall be compiled into a supplemental communications packet. The supplemental communications packet shall be made available to the City Council, public and members of the press no later than five days prior to the meeting.~~

~~Communications received by the City Clerk after the aforementioned deadline and by noon on the day of a Council meeting shall be duplicated by the City Clerk and submitted to the City Council at the meeting if related to an item which is on the agenda for that meeting. Communications submitted at the Council meeting will be included in the public viewing binder and in the Clerk Department the day following the meeting.~~

**2. Public Hearings.**

Interested persons or their authorized representatives may address the Council by reading protests, petitions, or communications relating to matters then under consideration.

**3. Public Comment.**

Interested persons may address the Council on any issue concerning City business during the period assigned to Public Comment.

**K. Addressing the Council After Motion Made**

When a motion is pending before the Council, no person other than the Mayor or a Councilmember~~council member~~ shall address the Council without first securing the permission of the presiding officer or Council to do so.

**Commented [NML63]:** Described elsewhere and unnecessary here.

## VI. FACILITIES

## VI. FACILITIES

**A. Council Chamber Capacity**

~~Council Chamber~~ Attendance at council meetings shall be limited to the posted seating capacity of the meeting location thereof. Entrance to the City Hall meeting location will be appropriately regulated by the City Manager on occasions when the ~~Council Chamber~~ capacity is likely to be exceeded. While the Council is in session, members of the public shall not remain standing in the ~~Council Chamber~~ meeting room except to address the Council, and sitting on the floor shall not be permitted. ~~The Council proceedings may be conveyed by loudspeaker to those who have been unable to enter the Council Chambers.~~

**Commented [NML64]:** Updated to reflect new locations of meetings and to not be as specific with regards to meeting locations

**B. Alternate Facilities for Council Meetings**

The City Council shall approve in advance a proposal that a Council meeting be held at a facility other than the ~~City Council Chambers~~ School District Board Room.

If the City Manager has reason to anticipate that the attendance for a meeting will be substantially greater than the capacity of the ~~City Council Chambers~~ Board Room and insufficient time exists to secure the approval of the City Council to hold the meeting at an alternate facility, the City Manager shall make arrangements for the use of a suitable alternate facility to which such meeting may be recessed and moved, if the City Council authorizes the action.

If a suitable alternate facility is not available, the City Council may reschedule the matter to a date when a suitable alternate facility will be available.

Alternate facilities are to be selected from those facilities previously approved by the City Council as suitable for meetings away from the ~~City Council Chambers~~ Board Room.

**C. Signs, Objects, and Symbolic Materials**

Objects and symbolic materials such as signs which do not have sticks or poles attached or otherwise create any fire or safety hazards will be allowed within the ~~Council Chamber~~ meeting location during Council meetings.

**D. Fire Safety**

Exits shall not be obstructed in any manner. Obstructions, including storage, shall not be placed in aisles or other exit ways. Hand carried items must be stored so that such items do not inhibit passage in aisles or other exit ways. Attendees are strictly prohibited from sitting in aisles and/or exit ways. Exit ways shall not be used in any way that will present a hazardous condition.

**E. Overcrowding**

Admittance of persons beyond the approved capacity of a place of assembly is prohibited. When the ~~Council Chambers~~ meeting location has reached the posted maximum capacity, additional attendees shall be directed to the designated overflow area.

## APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES

### Purpose

To establish a uniform policy regarding the naming and renaming of existing and future parks, streets, pathways and other public facilities.

### Objective

- A. To ensure that naming public facilities (such as parks, streets, recreation facilities, pathways, open spaces, public building, bridges or other structures) will enhance the values and heritage of the City of Berkeley and will be compatible with community interest.

### Section 1 – Lead Commission

The City Council designates the following commissions as the ‘Lead Commissions’ in overseeing, evaluating, and ultimately advising the Council in any naming or renaming of a public facility. The lead commission shall receive and coordinate comment and input from other Commissions and the public as appropriate.

#### Board of Library Trustees

Parks and Recreation Commission –Parks, recreation centers, camps, plazas and public open spaces

Public Works Commission –Public buildings (other than recreation centers), streets and bridges or other structures in the public thoroughfare.

Waterfront Commission –Public facilities within the area of the City known as the Waterfront, as described in BMC 3.36.060.B.

### Section 2 – General Policy

- A. Newly acquired or developed public facilities shall be named immediately after acquisition or development to ensure appropriate public identity.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. Public facilities that are renamed must follow the same criteria for naming new facilities. In addition, the historical significance and geographical reference of the established name should be considered when weighing and evaluating any name change.
- D. The City encourages the recognition of individuals for their service to the community in ways that include the naming of activities such as athletic events, cultural presentations, or annual festivals, which do not involve the naming or renaming of public facilities.
- E. Unless restricted by covenant, facilities named after an individual should not necessarily be considered a perpetual name.

### Section 3 – Criteria for Naming of Public Facilities

When considering the naming of a new public facility or an unnamed portion or feature within an already named public facility (such as a room within the facility or a feature within an established park), or, the renaming of an existing public facility the following criteria shall be applied:

- A. Public Facilities are generally easier to identify by reference to adjacent street names, distinct geographic or environmental features, or primary use activity. Therefore, the preferred practice is to give City-owned property a name of historical or geographical significance and to retain these names.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. The naming of a public facility or any parts thereof in recognition of an individual posthumously may only be considered if the individual had a positive effect on the community and has been deceased for more than 1 year.
- D. When a public facility provides a specific programmatic activity, it is preferred that the activity (e.g. skateboard park, baseball diamond) be included in the name of the park or facility.
- E. When public parks are located adjacent to elementary schools, a name that is the same as the adjacent school shall be considered.
- F. When considering the renaming of an existing public facility, in addition to applying criteria A-E above, proper weight should be given to the fact that: a name lends a site or property authenticity and heritage; existing names are presumed to have historic significance; and historic names give a community a sense of place and identity, continuing through time, and increases the sense of neighborhood and belonging.

#### Section 4 –Naming Standards Involving a Major Contribution

When a person, group or organization requests the naming or renaming of a public facility, all of the following conditions shall be met:

- A. An honoree will have made a major contribution towards the acquisition and/or development costs of a public facility or a major contribution to the City.
- B. The honoree has a record of outstanding service to their community
- C. Conditions of any donation that specifies that name of a public facility, as part of an agreement or deed, must be approved by the City Council, after review by and upon recommendation of the City Manager.

#### Section 5 –Procedures for Naming or Renaming of Public Facilities

- A. Any person or organization may make a written application to the City Manager requesting that a public facility or portion thereof, be named or renamed.
  - 1. Recommendations may also come directly of the City Boards or Commissions, the City Council, or City Staff.
- B. The City Manager shall refer the application to the appropriate lead commission as defined in Section 1 of the City's policy on naming of public facilities, for that commission's review, facilitation, and recommendation of disposition.
  - 1. The application shall contain the name or names of the persons or organization making the application and the reason for the requested naming or renaming.
- C. The lead commission shall review and consider the application, using the policies and criteria articulated to the City Policy on Naming and Renaming to make a recommendation to Council.
  - 1. All recommendations or suggestion will be given the same consideration without regard to the source of the nomination
- D. The lead commission shall hold a public hearing and notify the general public of any discussions regarding naming or renaming of a public facility.

1. Commission action will be taking at the meeting following any public hearing on the naming or renaming.
- E. The commission's recommendation shall be forwarded to Council for final consideration.

The City of Berkeley Policy for Naming and Renaming Public Facilities was adopted by the Berkeley City Council at the regular meeting of January 31, 2012.

## APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the ~~Agenda Committee~~Agenda & Rules Committee to request that the author of an item provide “additional analysis” if the item as submitted evidences a “significant lack of background or supporting information” or “significant grammatical or readability issues.”

These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. While not all elements would be applicable to every type of Agenda item, they are intended to prompt authors to consider presenting items with as much relevant information and analysis as possible.

Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:

2. Agenda items shall contain all relevant documentation, including the following as Applicable:
  - a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
  - b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
  - c. Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);
  - d. Fiscal impacts of the recommendation;
  - e. A description of the current situation and its effects;
  - f. Background information as needed;
  - g. Rationale for recommendation;
  - h. Alternative actions considered;
  - i. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
  - j. Person or persons to contact for further information, with telephone number. If the author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.



## Guidelines for City Council Items:

1. Title
2. Consent/Action/Information Calendar
3. Recommendation
4. Summary Statement/Current situation and its effects
5. Background
6. Review of Existing Plans, Programs, Policies and Laws
7. Actions/Alternatives Considered
8. Consultation/Outreach Overview and Results
9. Rationale for Recommendation
10. Implementation, Administration and Enforcement
11. Environmental Sustainability
12. Fiscal Impacts
13. Outcomes and Evaluation
14. Contact Information
15. Attachments/Supporting Materials

**1. Title**

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

**2. Consent/Action/Information Calendar**

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

**3. Recommendation**

Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

Common action options include:

- Adopt first reading of ordinance
- Adopt a resolution
- Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
- Direction to the City Manager (City Manager is directed to execute the recommendation right away, it is not placed on any referral list)
- Referral to a Commission or to a Standing or Ad Hoc Council Committee
- Referral to the budget process
- Send letter of support
- Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
- Designate members of the Council to perform some action

**4. Summary Statement/ “Current situation and its effects”**

A short resume of the circumstances that give rise to the need for the recommended action(s).

- Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.
- Example (fictional):  
*Winter rains are lasting longer than expected. Berkeley’s winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season, hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley’s winter shelters open until the end of April, and refers to the Budget Process \$40,000 to cover costs of an additional two months of shelter operations.*

**5. Background**

A full discussion of the history, circumstances and concerns to be addressed by the item.

- For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

**6. Review of Existing Plans, Programs, Policies and Laws**

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

Review of all pertinent/applicable sections of:

- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

Review of all applicable City Plans:

- The General Plan
- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan

- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan

Review of similar legislation previously introduced/passed by Council

Review of County, State and Federal laws/policies/programs/plans, if applicable

## 7. Actions/Alternatives Considered

- What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
- What solutions/measures are recommended by **advocates, experts, organizations**?
- What is the range of actions considered, and what are some of their major pros and cons?
- Why were other solutions not as feasible/advisable?

## 8. Consultation/Outreach Overview and Results

- Review/list external and internal stakeholders that were consulted
  - **External:** constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
  - **Internal:** staff who would implement policies, the City Manager and/or deputy CM, Department Heads, City Attorney, Clerk, etc.
- What reports, articles, books, websites and other materials were consulted?
- What was learned from these sources?
- What changes or approaches did they advocate for that were accepted or rejected?

## 9. Rationale for Recommendation

A clear and concise statement as to whether the item proposes actions that:

- Conform to, clarify or extend existing Plans, Programs, Policies and Laws
- Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
- Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
- Create an exception to existing Plans, Programs, Policies and Laws
- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented,

but should be presented/restated/summarized. Plus, further elaboration of terms for recommendations, if any.

**10. Implementation, Administration and Enforcement**

Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation?

**11. Environmental Sustainability**

Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

**12. Fiscal Impacts**

Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs.

**13. Outcomes and Evaluation**

State the specific outcomes expected, if any (i.e., "*it is expected that 100 homeless people will be referred to housing every year*") and what reporting or evaluation is recommended.

**14. Contact Information**

**15. Attachments/Supporting Materials**



Office of the City Manager

CONSENT CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Mark Numainville, City Clerk

Subject: Revised Conflict of Interest Code

RECOMMENDATION

Adopt a Resolution adopting a revised Conflict of Interest Code for the City of Berkeley and rescinding Resolution No. 68,201–N.S.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND EFFECTS

The Political Reform Act requires all cities to adopt and promulgate a Conflict of Interest Code (Code) which specifies designated positions subject to financial disclosure and provides for specific levels of financial disclosure. It also requires amendments to the Code within designated time periods to reflect changed circumstances, including the creation of new positions which must be designated and relevant changes in duties assigned to existing positions (Government Code Sections 87100, et seq.).

In this Code Amendment, the appendix for the Housing Advisory Commission has been revised to be raised to the broadest level of disclosure due to their status as a quasi-judicial body. This broader level of disclosure is needed for a body that must adhere to due process requirements in quasi-judicial hearings. Additionally, minor, non-substantive changes have been made to a number of commission appendices for consistency and clarity. New disclosure appendices have been added for the Homeless Services Panel of Experts, the Joint Subcommittee on the Implementation of State Housing Laws, and the Measure O Bond Oversight Committee.

Department appendices have been updated to reflect changes in department organization, including the addition of newly established classifications and the deletion of classifications which have been abolished. The following departments have updated disclosure appendices: City Manager's Department, Finance Department, Fire and Emergency Services Department, Health, Housing, and Community Services Department, Department of Information Technology, Parks, Recreation and Waterfront Department, Planning and Development Department, Public Works Department, and the Rent Stabilization Board.

The City began allowing employees to complete their Statements of Economic Interest electronically in 2009 while still requiring that signed hard copies be submitted; fully electronic filing was certified by the State and became mandatory in 2015. As many City boards and commission members have requested access to electronic filing and providing this service would reduce both staff time and paper usage, it is proposed that electronic filing be implemented on a voluntary basis for commissioner filings beginning January 1, 2020.

#### BACKGROUND

The City of Berkeley's first Conflict of Interest Code was adopted on October 1, 1982 by Resolution No. 51,425–N.S. and has been amended as necessary over time to reflect changes in regulations, departmental organizational structure, designated positions within departments, and commissions. A revised Code was last adopted by the City Council on October 31, 2017 by Resolution No. 68,201–N.S.

The Code accurately designates all positions that make or participate in the making of governmental decisions. The disclosure categories assigned to these positions require the disclosure of all investments, business positions, interests in real property and sources of income, which may foreseeably be affected materially by the decisions made by those designated positions. The Code includes all other provisions required by Government Code Section 87302 and incorporates by reference FPPC Regulation 2 Cal. Admin. Code Section 18730.

Attachment two shows the portions of the Code which required revision, in consultation with the City Attorney and Department Directors. Text to be added is underlined and text to be deleted is crossed out.

#### ENVIRONMENTAL SUSTAINABILITY

Allowing electronic filing of City commissioners' Form 700s will save a substantial amount of paper and vehicle trips to 2180 Milvia Street.

#### RATIONALE FOR RECOMMENDATION

The City is required by state law to adopt a Conflict of Interest Code. Ongoing revisions are necessary to ensure that the Code accurately reflects the designated positions outlined in each department's organizational structure. In addition, electronic filing of Form 700s by City commissioners will save both resources and staff time.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CONTACT PERSON

Mark Numainville, City Clerk, (510) 981-6900

Attachments:

1: Resolution

- Exhibit A: Conflict of Interest Code – Department Appendices
- Exhibit B: Conflict of Interest Code – Commission Appendices
- Exhibit C: Conflict of Interest Code – Consultant Appendix
- Exhibit D: Conflict of Interest Code – Index

2: Conflict of Interest Code – Revisions highlighted with Strikeout and Underline

RESOLUTION NO. ##,###-N.S.

ADOPTING A REVISED CONFLICT OF INTEREST CODE FOR THE CITY OF  
BERKELEY AND RESCINDING RESOLUTION NO. 68,201–N.S.

WHEREAS, the Political Reform Act, Government Code Sections 81000, et seq., requires every state or local government agency to adopt and promulgate a Conflict of Interest Code; and

WHEREAS, state law as specified in the Political Reform Act (the Act) requires the City Council as the code-reviewing body to direct the review of its conflict of interest code; and

WHEREAS, the Act further requires that such direction must occur by July 1 of each even numbered year; and

WHEREAS, the Act additionally requires the submission of a revised conflict of interest code for approval by the code-reviewing body or the notification of said body that no changes are necessary; and;

WHEREAS, the Fair Political Practices Commission has adopted a regulation, 2 Cal. Adm. Code Section 18730, which contains the terms of a standard model Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission after public notice and hearings to conform to amendments to the Political Reform Act; and

WHEREAS, the City of Berkeley may incorporate in its Conflict of Interest Code, by reference, regulation, 2 Cal. Adm. Code Section 18730; and

WHEREAS, on October 1, 1982, the City Council of the City of Berkeley adopted Resolution No. 51,425–N.S., Conflict of Interest Code, for the City of Berkeley; and

WHEREAS, the Code has been amended over time to incorporate changes in regulations, departmental organizational structure, changes in job classifications, and the addition and deletion of certain boards and commissions; and

WHEREAS, Resolution No. 68,201–N.S, adopted October 31, 2017, City of Berkeley's Conflict of Interest Code, requires minor amendments to reflect the current organizational structure of departments, their designated positions and level of disclosure; and

WHEREAS, the Council has determined that the attached Conflict of Interest Code accurately sets forth the current organizational structure of departments, their designated positions, and the respective categories of financial interests which should be made reportable and those boards and commissions which should be designated and the respective categories of financial interests which should be made reportable by their members; and

WHEREAS, state law allows the City to accept Form 700 electronically and designate the electronic filing as the filing of record, and the City has the ability to accept and process electronic filings.



NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Berkeley as follows:

Section 1. That Resolution No. 68,201–N.S. is hereby rescinded.

Section 2. That the City of Berkeley Conflict of Interest Code is hereby adopted, as attached, and includes the following:

(a) With the additions noted below, the terms of 2 Cal. Adm. Code Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and made a part of the Conflict of Interest Code of the City of Berkeley except that: (1) the term "investment" shall apply to financial interests in non-profit organizations as well as business entities; (2) the term "interest in real property" includes interests in berths at the Berkeley Marina regardless of when they expire; (3) the terms "non-profit organization" and "business entity" are limited to the jurisdiction in the same manner as the term "investment," i.e., they apply only if the non-profit organization, the business entity, or any parent, subsidiary or otherwise related entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business in the jurisdiction at any time during the two years prior to the time any statement or other action is required under this Code.

(b) Designated Positions with Reporting Requirements.

Elected officials, legislative assistants, members of boards and commissions appointed by the City Council, consultants and City employees holding designated positions shall be considered designated positions subject to reporting requirements under the Conflict of Interest Code, and shall disclose financial interests as set forth in the appendices listing individual disclosure categories.

Section 3. Filing of Statements

Persons holding designated positions shall file Statements of Economic Interests with the City of Berkeley on Fair Political Practices Commission forms, in conformance with the individual disclosure categories and State guidelines, when requested by the City Clerk. The City Clerk will retain custody of the statements and make the statements available for public inspection and reproduction. City Employees and Legislative Assistants in designated positions shall file electronic Statements of Economic Interests (e-file). The electronic filing will be the filing of record for City Employees and Legislative Assistants. City Commissioners may file in paper or file electronic Statements of Economic Interests (e-filing) beginning January 1, 2020. Statements filed electronically by Commissioners will be the filing of record.

Section 4. Late Filings and Failure to File Statements

Any violation of any provision of this Code is subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Government Code Sections 81000 et seq. The following additional regulations shall apply to City of Berkeley (a) employees, (b) legislative assistants, (c) members of boards and commissions appointed by the City Council or by an existing City commission, and (d) consultants:

a. City Employees:

If a City employee fails to e-file an Assuming Office or Annual Statement of Economic Interests within thirty days after the City Clerk has given specific written notice of non-filing, they shall be suspended without pay until such time as the required disclosure form has been e-filed. The employee's supervisor shall comply with the provisions of the appropriate Memorandum of Understanding or City of Berkeley Personnel Rules and Regulations in imposing such suspension, in addition, the City Clerk shall impose late filing fees in accordance with Government Code Section 91013 and 91013.5. Prior to resuming active employment with the City of Berkeley, all outstanding statements must be filed and any outstanding fine, payable under Government Code Section 91013, shall be paid. No person shall resume active employment with the City of Berkeley if there are outstanding statements or fines.

b. Legislative Assistants

If a legislative assistant fails to e-file an Assuming or Annual Statement of Economic Interests within thirty days after the City Clerk has given specific written notice of non-filing, the legislative assistant shall be terminated until such time as the required disclosure form has been e-filed, in addition, the City Clerk shall impose late filing fees in accordance with Government Code Sections 91013 and 91013.5. Prior to being reappointed by a Councilmember, all outstanding statements must be filed and any outstanding fine, payable under Government Code Section 91013, shall be paid. No person shall resume employment as a legislative assistant if there are outstanding statements or fines.

c. Members of Boards and Commissions:

If a member of any non-elected board or commission specified in the Code fails to file an Assuming Office Statement of Economic Interests within thirty days after their date of appointment, the commissioner's term shall expire. Similarly, if an Annual Statement of Economic Interests is not filed within thirty days after the City Clerk has given specific written notice of non-filing, the member's term on the commission shall expire. The City Clerk shall notify the commissioner that their term has expired and the appointing councilmember that a vacancy exists on the commission; in addition, the City Clerk shall impose late filing fees in accordance with Government Code Sections 91013 and 91013.5.

If the commissioner has not taken the Oath of Office and not attended any meetings, the commissioner is deemed not to have accepted the appointment and is not subject to filing obligations.

Prior to being reappointed to any commission, all outstanding filings for all commission appointments must be filed and any outstanding fines, payable under Government Code Section 91013, shall be paid. No person shall be appointed to any commission if there are outstanding statements or fines; and no person shall be appointed to any commission for a period of one year if terminated from any commission more than once for failure to file statements.

d. Consultants:

If a consultant, as defined in 2 Cal. Code Regs. Section 18701, fails to file any Statement of Economic Interests within thirty days after the City Clerk has given specific written notice of non-filing, they shall be advised by the City's project manager that no further payments shall be made by the City of Berkeley under the contract until such statement has been received by the City Clerk. The City Clerk shall also impose late filing fees in accordance with Government Code Sections 91013 and 91013.5.

Section 5. Interest and Positions in Non-Profit Organizations - Disclosure and Disqualification

Whenever a disclosure category requires disclosure of specific financial interests or positions in business entities, disclosure of the equivalent financial interests or positions in non-profit organizations is required. Disqualification shall be required as to a disclosed interest or position in a non-profit organization whenever disqualification would have been required as a result of an equivalent financial interest or position in a business entity.

Section 6. Revisions to the City's Conflict of Interest Code

The City Clerk will review the City's Conflict of Interest Code on an annual basis and if changes are required will submit a revised code for Council approval, or if no changes are necessary so notify the City Council, by the applicable deadline specified in the Political Reform Act.

**AUDITOR'S DEPARTMENT APPENDIX**

| <b>Designated Employees</b>                | <b>Disclosure Categories</b> |
|--------------------------------------------|------------------------------|
| City Auditor                               | 1                            |
| Audit Manager                              | 1                            |
| Auditor II                                 | 1                            |
| Auditor I                                  | 1                            |
| Deputy City Auditor for Payroll Management | 1                            |
| Senior Auditor                             | 1                            |

**Disclosure Categories**

**Category 1**

All designated employees shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income, including gifts, loans and travel payments.

**CITY ATTORNEY'S OFFICE APPENDIX**

**Designated Employees**

**Disclosure Categories**

**Administration**

|                                   |   |
|-----------------------------------|---|
| City Attorney                     | 1 |
| Assistant City Attorney           | 1 |
| Deputy City Attorney I, II, & III | 1 |
| Paralegal                         | 1 |

**Disclosure Categories**

**Category 1**

All designated employees shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income, including gifts, loans and travel payments.

**CITY CLERK DEPARTMENT APPENDIX**

| <b>Designated Employees</b>  | <b>Disclosure Categories</b> |
|------------------------------|------------------------------|
| City Clerk                   | 1                            |
| Deputy City Clerk            | 1                            |
| Assistant City Clerk         | 1                            |
| Assistant Management Analyst | 1                            |

**Disclosure Categories**

**Category 1**

All designated employees assigned to this category shall disclose all business entities, and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income, including gifts, loans and travel payments.

## CITY MANAGER'S DEPARTMENT APPENDIX

| Designated Employees | Disclosure Categories |
|----------------------|-----------------------|
|----------------------|-----------------------|

**Administration**

|                                    |   |
|------------------------------------|---|
| City Manager                       | 1 |
| Deputy City Manager                | 1 |
| Assistant City Manager             | 1 |
| Assistant to the City Manager      | 1 |
| Administrative Hearing Examiner    | 1 |
| Senior Management Analyst          | 1 |
| Associate Management Analyst       | 1 |
| Assistant Management Analyst       | 1 |
| Community Services Specialist III  | 1 |
| Digital Communications Coordinator | 1 |

**Animal Care Services**

|                                  |   |
|----------------------------------|---|
| Animal Services Manager          | 1 |
| Registered Veterinary Technician | 1 |

**Code Enforcement Group**

|                             |   |
|-----------------------------|---|
| Code Enforcement Supervisor | 1 |
| Code Enforcement Officer    | 1 |

**EXHIBIT A-4**

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10/19

**City Manager’s Department Appendix  
Page 2**

| <b>Designated Employees</b>                   | <b>Disclosure Categories</b> |
|-----------------------------------------------|------------------------------|
| <b>Office of Economic Development</b>         |                              |
| Manager of Economic Development               | 1                            |
| Economic Development Project Coordinator      | 1                            |
| Community Development Project Coordinator     | 1                            |
| Assistant Management Analyst                  | 1                            |
| Civic Arts Coordinator                        | 1                            |
| <b>Office of Budget and Fiscal Management</b> |                              |
| Budget Manager                                | 1                            |
| Senior Management Analyst                     | 1                            |
| <b>Police Review Commission Staff</b>         |                              |
| Police Review Commission Officer              | 3                            |
| Police Review Commission Investigator         | 3                            |

**EXHIBIT A-4**



**City Manager's Department Appendix  
Page 3**

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category shall disclose all business entities, and non-profit organizations in which they have an investment or in which they are a director officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income, including gifts, loans and travel payments.

**Category 2**

Designated employees assigned to this category shall disclose business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income manufactures, distributes, sells or otherwise provides goods or services of the type utilized by the division or program to which the designated employee is assigned.

**Category 3**

Designated employees assigned to this category shall disclose any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization, or source of income:

- (a) manufactures, distributes, sells or otherwise markets weapons, ammunition, or other law enforcement equipment;
- (b) is of the type which offers law enforcement training courses considered by the Police Review Commission; or
- (c) is a member of the Berkeley Police Department.

**Category 4**

Designated employees assigned to this category shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income including gifts, loans and travel payments, business entities, and non-profit organizations whose sources of income is in the music, theater, dance or fine arts communities, including individual artists, arts organizations and other groups promoting the arts.

**EXHIBIT A-4**

## FINANCE DEPARTMENT APPENDIX

| <b>Designated Employees</b>         | <b>Disclosure Categories</b> |
|-------------------------------------|------------------------------|
| <b>Administration</b>               |                              |
| Director of Finance                 | 1                            |
| Systems Accountant                  | 1                            |
| Senior Systems Analyst              | 1                            |
| <b>Accounting Division</b>          |                              |
| Accounting Manager                  | 1                            |
| Senior Accountant                   | 2                            |
| <b>Treasury Division</b>            |                              |
| Revenue Development Supervisor      | 1                            |
| Revenue Development Specialist II   | 1                            |
| Treasury Manager                    | 1                            |
| <b>Revenue Collections Division</b> |                              |
| Revenue Collection Manager          | 1                            |
| <b>General Services Division</b>    |                              |
| General Services Manager            | 1                            |
| Senior Buyer                        | 1                            |
| Buyer                               | 1                            |

**EXHIBIT A-5**

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**Finance Department Appendix  
Page 2**

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category shall disclose all business entities and non-profit organizations in which they have an investment or in which are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income including gifts, loans and travel payments.

**Category 2**

Designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income:

- (a) is a financial institution or is otherwise eligible under state law to have city funds, including pension, retirement and deferred compensation funds, deposited with it or invested in it;
- (b) is of the type which has provided services, including but not limited to professional advice on investment, bond, tax or legal matters, to the Finance Department within the previous two years;
- (c) is subject to a City of Berkeley licensing requirement; or
- (d) provides real property sales or management services or owns or operates real property of the type leased or purchased by the City of Berkeley within the previous two years.

**EXHIBIT A-5**

## FIRE AND EMERGENCY SERVICES DEPARTMENT APPENDIX

| <b>Designated Employees</b>              | <b>Disclosure Categories</b> |
|------------------------------------------|------------------------------|
| <b>Fire - Office of the Chief</b>        |                              |
| Fire Chief                               | 1                            |
| Fire Captain I/II                        | 2, 3                         |
| Administrative & Fiscal Services Manager | 1                            |
| Associate Management Analyst             | 3                            |
| <b>Training</b>                          |                              |
| Assistant Fire Chief                     | 1                            |
| Fire Captain I/II                        | 2, 3                         |
| Paramedic Supervisor                     | 2, 3                         |
| <b>Operations</b>                        |                              |
| Deputy Fire Chief                        | 1                            |
| Assistant Fire Chief                     | 1                            |
| Battalion Chief                          | 1                            |
| Fire Captain I/II                        | 2, 3                         |
| <b>Fire Prevention</b>                   |                              |
| Fire Marshal                             | 1                            |
| Deputy Fire Marshal                      | 1                            |
| Fire Prevention Inspectors               | 2                            |
| Fire and Life Safety Plans Examiner      | 2,4                          |
| Assistant Management Analyst             | 2, 4                         |

**Fire and Emergency Services Department Appendix  
Page 2**

**Designated Employees**

**Disclosure Categories**

**Special Operations Division  
Office of Emergency Services/Emergency Medical Services**

|                                |   |
|--------------------------------|---|
| Assistant Fire Chief           | 1 |
| Emergency Services Coordinator | 4 |

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property, and all sources of income, including gifts, loans and travel payments.

**Category 2**

Designated employees assigned to this category shall disclose any interest in commercial, industrial, or institutional real property; in residential rental property consisting of three or more units; or any other property subject to fire inspection. In addition, designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income:

- (a) owns, manages, or operates real property of the type subject to fire inspection; or
- (b) is in the building and construction industry, including but not limited to architects, developers, contractors, sub-contractors, materials suppliers or consultants.

**EXHIBIT A-6**

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**Fire and Emergency Services Department Appendix  
Page 3**

**Disclosure Categories (Continued)**

**Category 3**

Designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income manufactures, distributes, sells, leases or otherwise provides goods, equipment, or services of the type utilized by the Fire and Emergency Services Department.

**Category 4**

Designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income manufactures, distributes, sells, leases or otherwise provides goods, equipment or services of the type utilized by the division or program of the Fire and Emergency Services Department to which the designated employee is assigned.

**EXHIBIT A-6**

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## HEALTH, HOUSING AND COMMUNITY SERVICES DEPARTMENT APPENDIX

| <b>Designated Employees</b>                             | <b>Disclosure Categories</b> |
|---------------------------------------------------------|------------------------------|
| <b>Office of the Director</b>                           |                              |
| Administrative & Fiscal Services Manager                | 1                            |
| Associate Management Analyst                            | 2                            |
| Director of Health, Housing & Community Services        | 1                            |
| Deputy Director of Health, Housing & Community Services | 1                            |
| Senior Management Analyst                               | 2                            |
| <b>Aging Services Division</b>                          |                              |
| Manager of Aging Services                               | 1                            |
| Mental Health Clinical Supervisor                       | 4, 6                         |
| Senior Citizen Center Director                          | 4, 6                         |
| Senior Health Services Program Specialist               | 4, 6                         |
| Transportation Services Coordinator                     | 4, 6                         |
| <b>Housing and Community Services Division</b>          |                              |
| Associate Management Analyst                            | 6                            |
| Associate Planner                                       | 8                            |
| Community Development Project Coordinator               | 1                            |
| Manager of Housing and Community Services               | 1                            |
| Community Services Specialist I                         | 4, 8                         |
| Community Services Specialist II, III                   | 8                            |

**EXHIBIT A-7**

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**Health, Housing and Community Services Department Appendix  
Page 2**

**Designated Employees**

**Disclosure Categories**

**Housing and Community Services Division (Continued)**

|                                                  |   |
|--------------------------------------------------|---|
| Employment Programs Administrator                | 1 |
| Senior Community Development Project Coordinator | 1 |
| Homeless Services Coordinator                    | 8 |

**Environmental Health**

|                                            |   |
|--------------------------------------------|---|
| Environmental Health Supervisor            | 1 |
| Manager of Environmental Health            | 1 |
| Registered Environmental Health Specialist | 8 |
| Senior Environmental Health Specialist     | 1 |
| Vector Control Technician                  | 8 |

**Mental Health**

|                                             |      |
|---------------------------------------------|------|
| Community Services Specialist II            | 4    |
| Health Services Program Specialist          | 2    |
| Manager of Mental Health Services           | 1    |
| Assistant Manager of Mental Health Services | 1    |
| Mental Health Clinical Supervisor           | 4, 6 |
| Mental Health Program Supervisor            | 2    |
| Supervising Psychiatrist                    | 1    |

**EXHIBIT A-7**

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**Health, Housing and Community Services Department Appendix  
Page 3**

**Public Health**

|                                           |      |
|-------------------------------------------|------|
| Manager of Public Health Services         | 1    |
| Health Nutrition Program Coordinator      | 4, 6 |
| Health Officer                            | 1    |
| Health Services Supervisor                | 1    |
| Senior Health Services Program Specialist | 4, 6 |
| Supervising Public Health Nurse           | 4, 6 |
| Health Services Program Specialist        | 3    |
| Senior Health Management Analyst          | 4, 6 |
| Epidemiologist                            | 8    |

**Health, Housing and Community Services Department Appendix  
Page 4**

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income, including gifts, loans and travel payments.

**Category 2**

Designated employees assigned to this category shall disclose business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income manufactures, distributes, sells or otherwise provides goods or services of the type utilized by any division or program in the Department of Health, Housing and Community Services.

**Category 3**

Designated employees assigned to this category shall disclose any interest in real property located within a Berkeley target area or neighborhood strategy area. In addition they shall also disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income including gifts, loans and travel payments; if the business entity, non- profit organization or source of income is:

- a) a building contractor or subcontractor of the type performing work under Berkeley Housing Rehabilitation Programs; or
- b) is from individuals who have applied for or received housing rehabilitation assistance from the City of Berkeley within the previous two years.

**Category 4**

Designated employees assigned to this category shall disclose business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income manufactures, distributes, sells or otherwise provides goods or services of the type utilized by the division or program in the Department of Health, Housing and Community Services to which the designated employee is assigned.

**EXHIBIT A-7**

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**Health, Housing and Community Services Department Appendix  
Page 5**

**Disclosure Categories (Continued)**

**Category 5**

Designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income:

- a) manufactures, distributes, sells installs or otherwise markets equipment for energy conservation or alternative energy development; or
- b) provides services, including but not limited to design, repair, advocacy or consultation services, in the areas of energy conservation or alternative energy development.

**Category 6**

Designated employees assigned to this category shall disclose all business entities or non-profit organizations in which they have an investment, or in which they are a director, officer, partner, trustee, employee or hold any position of management and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income is of the type which receives funds under contract with the City of Berkeley to:

- a) Serve the social welfare needs of the people of Berkeley; or
- b) Provide health services, including but not limited to emergency services, obstetric, gynecological or maternity care, care for chronic or communicable diseases, and mental health; or
- c) Provide services to the aging; or
- d) Lease, own, or operate real property of the type suitable for the program or services under the supervision of the designated employee; or of the type suitable to be leased, owned, or operated by the City of Berkeley for health programs under the supervision of the designated employee.

**Health, Housing and Community Services Department Appendix  
Page 6**

**Disclosure Categories (Continued)**

**Category 7**

Designated employees assigned to this category shall disclose any interest in real property consisting in whole or in part of residential rental property. In addition, they shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity or source of income has an interest in, operates or manages residential rental property.

**Category 8**

Designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income:

- a) is of the type whose contracts with the City of Berkeley are monitored by the Department of Health, Housing and Community Services or which receives funds under contract with the City of Berkeley to serve the social welfare needs of the people of the Berkeley; or
- b) is of the type which manufactures, distributes, sells or otherwise provides goods or services of the type utilized by the designated employee's division of the Department of Health, Housing and Community Services.

**Health, Housing and Community Services Department Appendix  
Page 7**

**Disclosure Categories (Continued)**

**Category 9**

Designated employees assigned to this category shall disclose all business entities or non-profit organizations in which they have an investment, or in which they are a director, officer, partner, trustee, employee or hold any position of management; any interest in real property within one-fourth mile of any Berkeley Senior Center and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income is of the type which receives funds under contract with the City of Berkeley to:

- a) Serve the social welfare needs of the people of Berkeley; or
- b) Provide health services, including but not limited to emergency services, care for chronic or communicable diseases, and mental health; or
- c) Provide services to the aging; or
- d) Lease, own, or operate real property of the type suitable for the program or services under the supervision of the designated employee; or of the type suitable to be leased, owned, or operated by the City of Berkeley for community services programs under the supervision of the designated employee.

## HUMAN RESOURCES DEPARTMENT APPENDIX

| <b>Designated Employees</b>                       | <b>Disclosure Categories</b> |
|---------------------------------------------------|------------------------------|
| Director of Human Resources                       | 1                            |
| Equal Employment, Opportunity & Diversity Officer | 1                            |
| Employee Relations Manager                        | 1                            |
| Occupational Health and Safety Officer            | 2, 3                         |
| Occupational Health and Safety Specialist         | 3                            |
| Senior Human Resources Analyst                    | 2, 3                         |
| Training Officer                                  | 2                            |
| Worker's Compensation Analyst                     | 3                            |
| <b>Benefits</b>                                   |                              |
| Associate Human Resources Analyst                 | 3                            |

### **Disclosure Categories**

#### **Category 1**

Designated employees in this category shall disclose all business entities and non-profit organizations in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property and all sources of income, including gifts, loans and travel payments.

### **Exhibit A-3**

G:\CLERK\CONFLICT CODE\Code Updates\2019 Code\Report\Exhibit A\A-8 Human Resources  
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**Human Resources Department Appendix  
Page 2**

**Disclosure Categories (Continued)**

**Category 2**

Designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income including gifts, loans and travel payments; if the business entity, non-profit organization or source of income:

- (a) is a labor union; or
- (b) is of the type which has provided the Human Resources Department within the previous two years with testing materials or services, or with services of any other kind including but not limited to consultant services or medical examination services; or
- (c) provides training, organizational development or facilitator services.

**Category 3**

Designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or are a director, officer, partner, trustee, employee or hold any position of management; and income including gifts, loans and travel payments; if the business entity, non-profit organization or source of income is of the type which provides insurance of any kind, including but not limited to workers' compensation, health, life or liability insurance or related services.

## DEPARTMENT OF INFORMATION TECHNOLOGY APPENDIX

| <b>Designated Employees</b>           | <b>Disclosure Categories</b> |
|---------------------------------------|------------------------------|
| Director of Information Technology    | 1                            |
| Senior Management Analyst             | 1                            |
| Senior Systems Analyst                | 1                            |
| Senior Information Systems Specialist | 1                            |
| Customer Service Manager              | 1                            |
| Information Systems Manager           | 1                            |
| Application Programmer Analyst II     | 1                            |
| Information Security Manager          | 1                            |
| Database Administrator                | 1                            |

**Disclosure Categories****Category 1**

Designated employees assigned to this category shall disclose all business entities, and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income, including gifts, loans and travel payments.



## LIBRARY DEPARTMENT APPENDIX

| <b>Designated Employees</b> | <b>Disclosure Categories</b> |
|-----------------------------|------------------------------|
|-----------------------------|------------------------------|

**Administration Services**

|                                          |   |
|------------------------------------------|---|
| Director of Library Services             | 1 |
| Deputy Director of Library Services      | 1 |
| Administrative & Fiscal Services Manager | 1 |

**Circulation Services Division**

|                              |   |
|------------------------------|---|
| Circulation Services Manager | 1 |
|------------------------------|---|

**Children's/Neighborhood Services Division**

|                          |   |
|--------------------------|---|
| Library Services Manager | 1 |
|--------------------------|---|

**Technical Services & Information Technology**

|                                           |   |
|-------------------------------------------|---|
| Library Information Systems Administrator | 1 |
| Library Services Manager                  | 1 |

**Maintenance Division**

|                                        |   |
|----------------------------------------|---|
| Senior Building Maintenance Supervisor | 1 |
|----------------------------------------|---|

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income, including gifts, loans and travel payments.

**EXHIBIT A-10**

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**MAYOR AND COUNCIL DEPARTMENT APPENDIX**

| <b>Designated Employees</b>                    | <b>Disclosure Categories</b> |
|------------------------------------------------|------------------------------|
| Mayor                                          | 1                            |
| City Councilmembers                            | 1                            |
| Chief of Staff                                 | 1                            |
| Assistant to the Mayor                         | 1                            |
| Legislative Assistant/Administrative Assistant | 1                            |

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income, including gifts, loans and travel payments.

**EXHIBIT A-11**

**PARKS, RECREATION & WATERFRONT DEPARTMENT APPENDIX**

| <b>Designated Employees</b>                  | <b>Disclosure Categories</b> |
|----------------------------------------------|------------------------------|
| <b>Office of the Director</b>                |                              |
| Director of Parks, Recreation and Waterfront | 1                            |
| Deputy Director                              | 1                            |
| Senior Management Analyst                    | 1                            |
| Associate Civil Engineer                     | 1                            |
| Supervising Civil Engineer                   | 1                            |
| Capital Improvement Programs Manager         | 1                            |
| <b>Parks Division</b>                        |                              |
| Parks Superintendent                         | 1                            |
| Senior Forestry Supervisor                   | 2, 3                         |
| Senior Landscape Gardener Supervisor         | 2, 3                         |
| Building Maintenance Supervisor              | 2, 3                         |
| Senior Building Maintenance Supervisor       | 2, 3                         |
| <b>Recreation Division</b>                   |                              |
| Recreation and Youth Services Manager        | 1                            |
| Camp Manager                                 | 2, 3, 4                      |
| Recreation Program Supervisor                | 1                            |
| Aquatics Facilities Supervisor               | 3                            |
| Recreation Coordinator                       | 3                            |
| Aquatics Coordinator                         | 3                            |

**EXHIBIT A-12**

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**Parks, Recreation and Waterfront Department Appendix  
Page 2**

**Designated Employees**

**Disclosure Categories**

**Waterfront Division**

|                       |      |
|-----------------------|------|
| Waterfront Manager    | 1    |
| Harbormaster          | 3, 5 |
| Waterfront Supervisor | 2, 5 |

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category shall disclose all business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property and all sources of income, including gifts, loans and travel payments.

**Category 2**

Designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income including gifts, loans and travel payments; if the business entity, non-profit organization or source of income is of the type which manufactures, distributes, sells, leases or otherwise provides the Parks, Recreation & Waterfront Department with:

- (a) goods of any kind, including but not limited to heavy equipment, vehicles, machinery, tools, fuel products or other equipment; or
- (b) services of any kind, including but not limited to building or construction services and consultant services.

**Parks, Recreation and Waterfront Department Appendix  
Page 3**

**Disclosure Categories (Continued)**

**Category 3**

Designated employees assigned to this category, shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income manufactures, distributes, sells, leases or otherwise provides goods, equipment, machinery, supplies or services of the type used by the division or program of the Parks, Recreation & Waterfront Department to which the designated employee is assigned.

**Category 4**

Designated employees assigned to this category shall disclose all interests in real property. In addition, they shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income:

- (a) owns, operates or manages real property; or
- (b) is a utility; or
- (c) is in the building or construction industry, including but not limited to architects, engineers, building construction contractors or subcontractors, materials suppliers, or consultants.

**Category 5**

Designated employees assigned to this category shall disclose:

- (a) all interests in real property located on or within one-fourth mile of the Berkeley Waterfront, including any leasehold interest in berths at the Berkeley Marina; and
- (b) any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee or employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income:
  - (i) is located on the Berkeley Waterfront;

**EXHIBIT A-12**

**Parks, Recreation and Waterfront Department Appendix  
Page 4**

**Disclosure Categories**

**Category 5 (Continued)**

- (ii) has an interest in real property on the Berkeley Waterfront; or does business, has done business within the previous two years, plans to do business on the Berkeley Waterfront, including but not limited to architects, engineers, real estate developers, building contractors, lawyers and others involved in projects or proposals on the Berkeley Waterfront.

## PLANNING AND DEVELOPMENT DEPARTMENT APPENDIX

| Designated Employees | Disclosure Categories |
|----------------------|-----------------------|
|----------------------|-----------------------|

**Office of the Director / Administration**

|                                            |   |
|--------------------------------------------|---|
| Director of Planning and Development       | 1 |
| Administrative and Fiscal Services Manager | 1 |
| Associate Management Analyst               | 1 |
| Assistant Management Analyst               | 1 |

**Permit Service Center**

|                           |      |
|---------------------------|------|
| Permit Center Coordinator | 1    |
| Senior Permit Specialist  | 2, 4 |
| Permit Specialist         | 2, 4 |

**Land Use Planning Division**

|                           |   |
|---------------------------|---|
| Land Use Planning Manager | 1 |
| Principal Planner         | 1 |
| Senior Planner            | 1 |
| Associate Planner         | 1 |
| Assistant Planner         | 1 |
| Planning Technician       | 1 |

**Building and Safety Division**

|                                       |   |
|---------------------------------------|---|
| Building and Safety Manager           | 1 |
| Assistant Building and Safety Manager | 1 |
| Resilient Buildings Program Manager   | 1 |

**EXHIBIT A-13**

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**Planning and Development Department Appendix  
Page 2**

**Designated Employees**

**Disclosure Categories**

**Building and Safety Division (Continued)**

|                                       |      |
|---------------------------------------|------|
| Supervising Building Inspector        | 2, 4 |
| Senior Building Inspector             | 2, 4 |
| Building Inspector I & II (Certified) | 2, 4 |
| Building Plans Engineer               | 2, 4 |
| Senior Building Plans Engineer        | 2, 4 |
| Building Plans Examiner               | 2, 4 |
| Senior Building Plans Examiner        | 2, 4 |
| Engineering Inspector                 | 2, 4 |
| Community Services Specialist I       | 2, 4 |

**Toxics Management Division**

|                                       |   |
|---------------------------------------|---|
| Hazardous Materials Manager           | 1 |
| Hazardous Materials Specialist I & II | 3 |

**Office of Energy and Sustainable Development**

|                                   |      |
|-----------------------------------|------|
| Energy Program Manager            | 1    |
| Associate Management Analyst      | 2, 4 |
| Community Services Specialist I   | 2, 4 |
| Community Services Specialist II  | 2, 4 |
| Community Services Specialist III | 2, 4 |

**EXHIBIT A-13**

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**Planning and Development Department Appendix  
Page 3**

| <b>Designated Employees</b>     | <b>Disclosure Categories</b> |
|---------------------------------|------------------------------|
| <b>Housing Code Enforcement</b> |                              |
| Assistant Management Analyst    | 1                            |
| Housing Inspector               | 1                            |
| Housing Inspector (Certified)   | 1                            |
| Housing Inspector Supervisor    | 1                            |

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category shall disclose all business entities or non-profit organizations in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income including gifts, loans and travel payments.

**Category 2**

Designated employees assigned to this category shall disclose all interests in real property. In addition, they shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income has an interest in real property or is in the building and construction industry, including but not limited to architects, developers, contractors, sub-contractors, materials suppliers or consultants.

**Category 3**

Designated employees assigned to this category shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income:

- (a) produces, uses, collects or disposes of hazardous and toxic materials; or
- (b) provides consulting services in the areas of source reduction and recycling, and the management, treatment and disposal of hazardous wastes and materials.

**EXHIBIT A-13**

**Planning and Development Department Appendix  
Page 4**

**Disclosure Categories (Continued)**

**Category 4**

Designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income:

- (a) manufactures, distributes, sells installs or otherwise markets equipment for energy conservation or alternative energy development; or
- (b) provides services, including but not limited to design, repair, advocacy or consultation services, in the areas of energy conservation or alternative energy development.

**POLICE DEPARTMENT APPENDIX**

| <b>Designated Employees</b>              | <b>Disclosure Categories</b> |
|------------------------------------------|------------------------------|
| Chief of Police                          | 1                            |
| Administrative & Fiscal Services Manager | 1                            |
| Police Captain                           | 1                            |

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category shall disclose all business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income, including gifts, loans and travel payments.

## PUBLIC WORKS DEPARTMENT APPENDIX

| <b>Designated Employees</b>               | <b>Disclosure Categories</b> |
|-------------------------------------------|------------------------------|
| <b>Office of the Director</b>             |                              |
| Director of Public Works                  | 1                            |
| Deputy Director                           | 1                            |
| Senior Management Analyst                 | 2                            |
| Associate Management Analyst              | 2                            |
| Administrative & Fiscal Services Manager  | 1                            |
| Assistant Management Analyst              | 2                            |
| Disability Services Specialist            | 2, 4                         |
| Community Development Project Coordinator | 1, 4                         |
| Public Works Operations Manager           | 1, 4                         |
| Solid (Zero) Waste and Recycling Manager  | 1, 5                         |
| <b>Engineering Division</b>               |                              |
| Manager of Engineering                    | 1, 4                         |
| Assistant Management Analyst              | 3                            |
| Associate Civil Engineer                  | 2, 4                         |
| Engineering Inspector                     | 2, 6                         |
| Chief of Party                            | 2                            |
| Assistant Public Works Engineer           | 2                            |
| Junior Public Works Engineer              | 2                            |
| Assistant Civil Engineer (Registered)     | 2, 4                         |

**EXHIBIT A-15**

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**Public Works Department Appendix  
Page 2**

**Designated Employees**

**Disclosure Categories**

**Engineering Division (Continued)**

|                                     |         |
|-------------------------------------|---------|
| Supervising Civil Engineer          | 1, 4, 6 |
| Senior Drafting Technician          | 2, 4    |
| Building Inspector                  | 1, 6    |
| Senior Building Inspector           | 2, 6    |
| Environmental Compliance Specialist | 2, 4    |

**Transportation Division**

|                                                     |      |
|-----------------------------------------------------|------|
| Transportation Manager                              | 1    |
| Principal Planner                                   | 1    |
| Senior Planner                                      | 1    |
| Associate Planner                                   | 1    |
| Assistant Planner                                   | 2, 4 |
| Parking Services Manager                            | 2    |
| Supervising Traffic Engineer                        | 1, 4 |
| Associate Traffic Engineer                          | 2, 4 |
| Assistant Traffic Engineer                          | 2, 4 |
| Associate Civil Engineer                            | 2, 4 |
| Assistant Management Analyst                        | 2    |
| Traffic Maintenance Supervisor                      | 2    |
| Parking Meter Maintenance and Collection Supervisor | 2    |

**EXHIBIT A-15**

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**Public Works Department Appendix  
Page 3**

**Designated Employees**

**Disclosure Categories**

**Zero Waste Division**

|                                              |         |
|----------------------------------------------|---------|
| Solid (Zero) Waste and Recycling Manager     | 1, 5    |
| Senior Solid (Zero) Waste Supervisor         | 2       |
| Recycling Program Manager                    | 3, 5    |
| Solid (Zero) Waste Supervisor                | 3, 5    |
| Public Works (Zero Waste) Operations Manager | 1, 4, 5 |
| Environmental Compliance Specialist          | 1       |
| Field Representative                         | 2       |

**Facilities Management Division**

|                                        |      |
|----------------------------------------|------|
| Environmental Compliance Specialist    | 3, 7 |
| Facilities Maintenance Superintendent  | 2, 6 |
| Senior Building Maintenance Supervisor | 3, 6 |
| Building Maintenance Supervisor        | 3, 6 |
| Senior Electrical Supervisor           | 1, 4 |
| Lead Communications Technician         | 1    |

**Equipment Maintenance**

|                                      |      |
|--------------------------------------|------|
| Equipment Maintenance Superintendent | 2, 4 |
| Senior Equipment Supervisor          | 3    |

**EXHIBIT A-15**

**Public Works Department Appendix  
Page 4**

**Designated Employees**

**Disclosure Categories**

**Streets Division**

|                                         |      |
|-----------------------------------------|------|
| Public Works Maintenance Superintendent | 2    |
| Senior Public Works Supervisor          | 3    |
| Assistant Management Analyst            | 2, 4 |
| Public Works Supervisor                 | 3    |
| Sewer Maintenance Assistant Supervisor  | 3    |

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category shall disclose all business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income, including gifts, loans and travel payments.

**Category 2**

Designated employees assigned to this category shall disclose entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income including gifts, loans and travel payments; if the business entity, non-profit organization or source of income is of the type which manufactures, distributes, sells, leases or otherwise provides goods or services of the type used by any division or program of the Public Works Department.

**Public Works Department Appendix  
Page 5**

**Disclosure Categories (Continued)**

**Category 3**

Designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income including gifts, loans and travel payments; if the business entity, non-profit organization or source of income manufactures, distributes, sells, leases or otherwise provides goods, equipment, machinery, supplies or services of the type used by the division or program of the Public Works Department to which the designated employee is assigned.

**Category 4**

Designated employees assigned to this category shall disclose all interests in real property. In addition, they shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income:

- (a) owns, operates or manages real property; or
- (b) is a utility; or
- (c) is in the building or construction industry, including but not limited to architects, engineers, building construction contractors or subcontractors, materials suppliers, or consultants.

**Category 5**

Designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income is of the type which:

- (a) collects or hauls solid waste;
- (b) builds or operates any solid waste disposal facility, transfer or processing station or resource recovery facility;
- (c) engages in solid waste recycling activities; or



**Public Works Department Appendix  
Page 6**

**Disclosure Categories**

**Category 5 (Continued)**

- (d) acts as a consultant to entities or organizations engaged in the above activities.

**Category 6**

Designated employees assigned to this category shall disclose any interest in real property located in an area of Berkeley in which the utility lines have not been undergrounded. In addition, they shall disclose business entities, or non-profit organizations, in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity or source of income is a public utility company which does any work related to the provision of utility services, is a construction company or subcontractor of such company or has an interest in real property in an area of Berkeley in which the utility lines have not been undergrounded.

**Category 7**

Designated employees assigned to this category shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income including gifts, loans and travel payments; if the business entity, non-profit organization or source of income:

- (a) produces, uses, collects, stores, or disposes of hazardous or toxic materials; or
- (b) provides consulting services in the areas of source reduction or recycling, or the management, treatment or disposal of hazardous wastes or materials.

## RENT STABILIZATION BOARD APPENDIX

| <b>Designated Officials</b> | <b>Disclosure Categories</b> |
|-----------------------------|------------------------------|
|-----------------------------|------------------------------|

|                               |         |
|-------------------------------|---------|
| Commissioners (Board Members) | 1, 2, 3 |
|-------------------------------|---------|

| <b>Designated Employees</b> | <b>Disclosure Categories</b> |
|-----------------------------|------------------------------|
|-----------------------------|------------------------------|

|                    |         |
|--------------------|---------|
| Executive Director | 1, 2, 3 |
|--------------------|---------|

|                 |         |
|-----------------|---------|
| Deputy Director | 1, 2, 3 |
|-----------------|---------|

|                              |      |
|------------------------------|------|
| Assistant Management Analyst | 2, 3 |
|------------------------------|------|

|                              |      |
|------------------------------|------|
| Associate Management Analyst | 2, 3 |
|------------------------------|------|

|                           |      |
|---------------------------|------|
| Senior Management Analyst | 2, 3 |
|---------------------------|------|

|                                |      |
|--------------------------------|------|
| Administrative Staff Assistant | 2, 3 |
|--------------------------------|------|

|                                 |      |
|---------------------------------|------|
| Community Services Specialist I | 2, 3 |
|---------------------------------|------|

|                                  |      |
|----------------------------------|------|
| Community Services Specialist II | 2, 3 |
|----------------------------------|------|

|                                   |      |
|-----------------------------------|------|
| Community Services Specialist III | 2, 3 |
|-----------------------------------|------|

|                         |      |
|-------------------------|------|
| Senior Hearing Examiner | 2, 3 |
|-------------------------|------|

|                   |      |
|-------------------|------|
| Hearing Examiners | 2, 3 |
|-------------------|------|

|               |         |
|---------------|---------|
| Chief Counsel | 1, 2, 3 |
|---------------|---------|

|                             |         |
|-----------------------------|---------|
| Staff Attorneys I, II & III | 1, 2, 3 |
|-----------------------------|---------|

|                |      |
|----------------|------|
| Senior Planner | 2, 3 |
|----------------|------|

|                   |      |
|-------------------|------|
| Associate Planner | 2, 3 |
|-------------------|------|

|                   |      |
|-------------------|------|
| Assistant Planner | 2, 3 |
|-------------------|------|

**EXHIBIT A-16**

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## RENT STABILIZATION BOARD APPENDIX

### Page 2

#### Disclosure Categories

##### Category 1

Designated employees assigned to this category shall disclose:

- (a) All investment and interest in, and all sources of income from real property including but not limited to ownership, sale, management, transfer or exchange.
- (b) All investments in and sources of income, including gifts, loans and travel payments from entities which own, sell, manage, transfer or exchange real property.
- (c) Any management position including but not limited to a director, officer, partner or trustee in any business entity or non-profit organization subject to or potentially affected by the regulatory authority of the Rent Board.
- (d) The assuming office statement shall disclose all interests and dealings in real property, including but not limited to ownership, sale, management, transfer or exchange, and interests in entities whose primary purpose is the ownership, sale, management, transfer or exchange of real property, during the previous three years.

##### Category 2

Designated employees assigned to this category shall disclose:

- (a) All investments and interests in and all sources of income from real property, including but not limited to ownership, sale, management, transfer or exchange, subject to the regulatory authority of the Rent Board.
- (b) All investments and business positions in and sources of income, including gifts, loans and travel payments from entities which own, sell, manage, transfer or exchange real property, subject to the regulatory authority of the Rent Board.

##### Category 3

Designated employees assigned to this category shall disclose investments and business positions in business entities, non-profit organizations and sources of income, including gifts, loans and travel payments of the type which, within the past two years, have contracted with the City of Berkeley to provide services, supplies, materials, machinery or equipment to the Board.

#### EXHIBIT A-16

**RETIRED ANNUITANT APPENDIX**

**Designated Employees**

**Disclosure Categories**

Retired Annuitants who perform the same or substantially all the same duties for the City that would otherwise be performed by an individual holding a designated position in the City's Conflict of Interest Code.

\*

**Disclosure Categories**

\*Disclosure required at the same level as the comparable designated position identified elsewhere in this Code.

**ANIMAL CARE COMMISSION APPENDIX**

**Designated Officials**

Members of the Commission

**Disclosure Category**

All members of the Commission shall disclose business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income:

- a) provides services, goods, or equipment related to the care, treatment or control of animals; or
- b) does business, has done business within the previous two years, or plans to do business with any city owned animal shelter, including but not limited to architects, engineers, building contractors, lawyers and others involved in projects or proposals connected with the building or modification of any City owned animal shelter.

**EXHIBIT B-1**

G:\CLERK\CONFLICT CODE\Code Updates\2019 Code\Report\Exhibit B\B-1 Animal Care.docx  
10/19

## BERKELEY ENERGY COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee, or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income is of the type which:

- (1) is engaged in the building construction trades;
- (2) manufactures, distributes, sells, installs, or otherwise markets equipment for energy conservation or alternative energy development; or
- (3) provides services, including but not limited to design, repair, advocacy, financial, or consultation services, in the areas of energy conservation or alternative energy development.

### EXHIBIT B-2

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## BOARD OF LIBRARY TRUSTEES APPENDIX

### Designated Officials

Members of the Board

### Disclosure Category

Members of the Board shall disclose any interest in real property within a 1/2 mile of any Berkeley municipal library. In addition, members of the Board shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel-payments; if the business entity, non-profit organization, or source of income is of the type which:

- (a) manufactures, repairs, distributes, sells, leases or otherwise markets library materials and equipment including, but not limited to, books, periodicals, art slides or prints, records, and cataloguing equipment or systems; or
- (b) has contracted with the Berkeley Library Department within the previous two years to provide any other kinds of goods or services to the Department.

### EXHIBIT B-3

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## CANNABIS COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose:

- (1) All interests in real property located in the City of Berkeley; and
- (2) Any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization or source of income is of the type which:
  - a) manufactures, distributes, sells, installs, or otherwise markets equipment or supplies for cultivation or consumption of the plant Cannabis sativa L. or any of its derivatives; or
  - b) operates any cannabis business or organization, including collectives and dispensaries; or
  - c) engages in activities or provides services that involve planting, cultivating, harvesting, transporting, dispensing, delivering, selling at retail or wholesale, manufacturing, compounding, converting, processing, preparing, storing, packaging, or testing, any part of the plant Cannabis sativa L. or any of its derivatives.

### EXHIBIT B-4

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## CHILDREN, YOUTH, AND RECREATION COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All Members of the Commission shall disclose:

- (a) all interests in business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization or source of income is related to the work in the field of early childhood development, education, childcare, recreational programs and activities, and
  
- (b) all interests in real property within  $\frac{1}{4}$  mile of any Berkeley park, mini-park or municipal recreation facility or within  $\frac{1}{4}$  mile of any open space suitable for development into a park or mini-park.

### EXHIBIT B-5

G:\CLERK\CONFLICT CODE\Code Updates\2019 Code\Report\Exhibit B\B-5 Children, Youth & Rec.docx  
10/19

## CIVIC ARTS COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose business entities, and non-profit organizations in which they have an investment, or in which they are a director, officer, partner, employee, or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income:

- (1) has applied for, is receiving, or within the previous two years has received, funds through the City to advance the Arts in Berkeley;
- (2) has profited from the creation, production, sale, or display of any artistic endeavor;  
or
- (3) has provided services, goods, or equipment to artistic endeavors.

### EXHIBIT B-6

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10/19

## COMMISSION ON AGING APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization or source of income has applied for, is receiving or within the previous two years has received funds through the City of Berkeley to provide services to the aging. In addition, members of the Commission shall disclose any interest in real property located within 1/4 mile of any of the Berkeley Senior Centers.

### EXHIBIT B-7

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## COMMISSION ON DISABILITY APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose business entities and non-profit organizations in which they hold an investment or in which they are a director, officer, partner, trustee, employee or have any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income within the previous two years has provided services, goods, or equipment to disabled persons.

### EXHIBIT B-8

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10/19

## COMMISSION ON LABOR APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income:

- (1) is a union or other organization which represents or has sought to represent employees or management in collective bargaining; or
- (2) has applied for, is receiving, or within the previous two years has received funds through the City of Berkeley to provide services to organizations whose purpose is to serve the legal rights and economic interests of labor.

### EXHIBIT B-9

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## COMMUNITY ENVIRONMENTAL ADVISORY COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income:

- (a) produces, uses, collects or disposes of hazardous and toxic materials; or
- (b) provides consulting services in the areas of source reduction and recycling, and the management, treatment and dispersal of hazardous wastes and materials.

### EXHIBIT B-10

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## COMMUNITY HEALTH COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose business entities or non-profit organizations in which they have an investment or are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity or non-profit organization provides goods or services relating in any way to the provision, administration or financing of health care or health planning, education and information.

### EXHIBIT B-11

G:\CLERK\CONFLICT CODE\Code Updates\2019 Code\Report\Exhibit B\B-11 Community Health.docx  
10/19

## DESIGN REVIEW COMMITTEE APPENDIX

### Designated Officials

Members of the Committee

### Disclosure Category

All members of the committee shall disclose any interest in real property consisting in whole or in part of a building located in any commercially zoned area in the City of Berkeley. In addition, members of the Committee shall disclose any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income has an interest in real property consisting in whole or in part of a building located in a commercially zoned area; derives income from the sale of construction supply materials; or performs construction services or renovation services including landscaping, architectural, and interior decorating.

### EXHIBIT B-12

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## DISASTER AND FIRE SAFETY COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

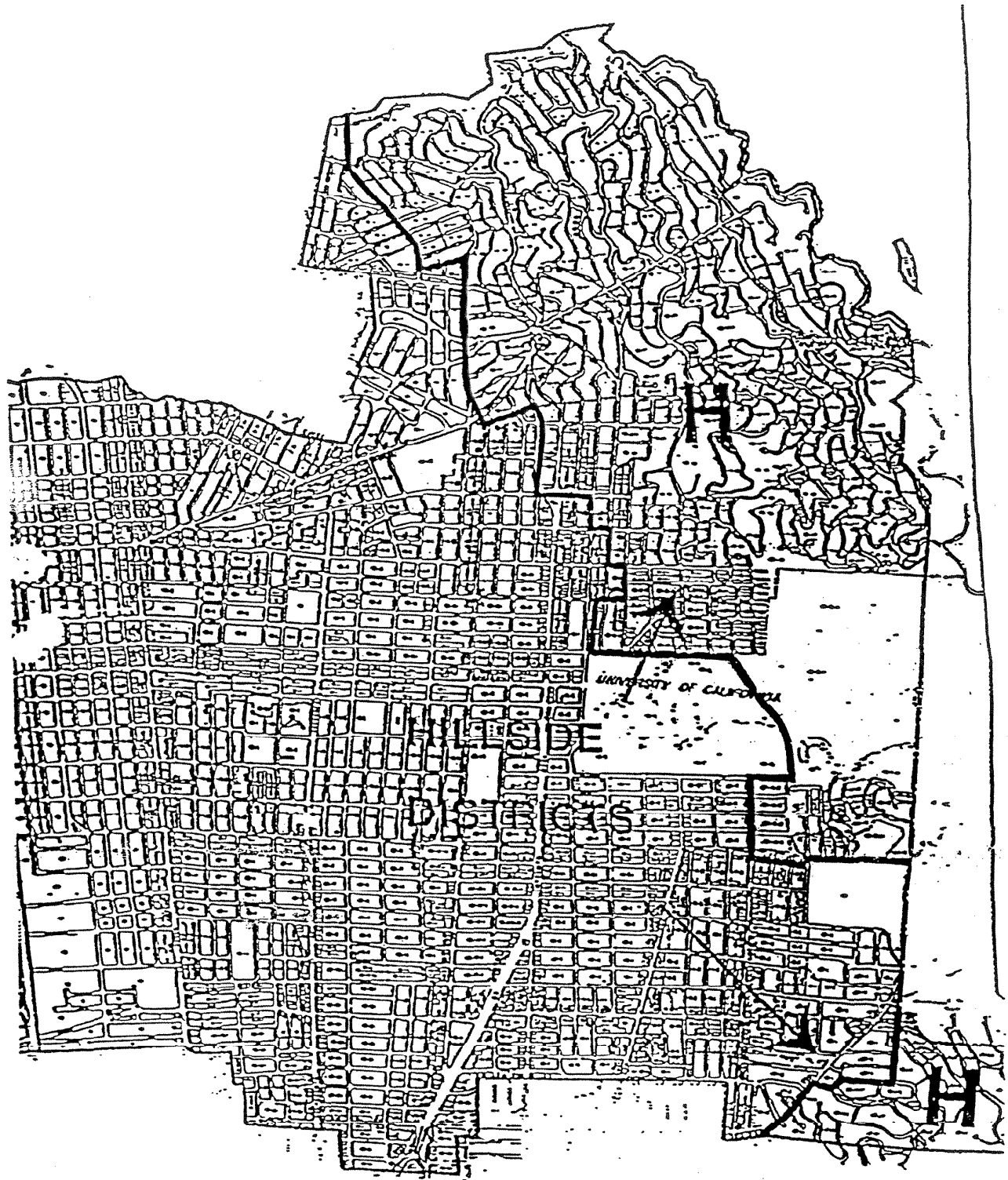
All members of the Commission shall disclose all interests in real property located in the City of Berkeley.

In addition, members of the Commission shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee, or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income is of the type which:

- a) manufactures, distributes, sells, leases, or otherwise provides goods or services that may be used in planning, preparing for or responding to a disaster or emergency as defined in BMC Ch. 2.88.020;
- b) provides consulting services in the areas of disaster management or disaster preparedness;
- c) offers disaster preparedness, fire service, or emergency medical services training courses;
- d) acts as a consultant to organizations engaged in fire inspection, fire prevention, code enforcement, chipper and debris removal, landscaping or any other fire preparedness service.
- e) provides architectural, engineering or construction work in the areas of seismic retrofitting, upgrades or disaster recovery.

### EXHIBIT B-13

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ATTACHMENT A TO DISASTER AND FIRE SAFETY COMMISSION

**ELMWOOD BUSINESS IMPROVEMENT DISTRICT  
ADVISORY BOARD APPENDIX**

**Designated Officials**

Members of the Board

**Disclosure Category**

All members of the Board shall disclose all interests in real property located in or within one mile of the Elmwood Business Improvement District as defined in Attachment A to this Appendix, and any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income; if the business entity, non-profit organization, or source of income is:

- (a) located in or within one mile of the Elmwood Business Improvement District;
- (b) has an interest in real property located in or within one mile of the Elmwood Business Improvement District; or
- (c) does business, has done business within the previous two years, or plans to do business in or within one mile of the Elmwood Business Improvement District, including but not limited to architects, engineers, real estate developers, building contractors, lawyers and others involved in projects or proposals located in or within one mile of the Elmwood Business Improvement District.

**EXHIBIT B-14**

G:\CLERK\CONFLICT CODE\Code Updates\2019 Code\Report\Exhibit B\B-14 Elmwood BID.docx

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ATTACHMENT A

ELMWOOD BUSINESS IMPROVEMENT DISTRICT  
ADVISORY BOARD APPENDIX

**7.84.030 Boundaries of district.**

The boundaries of the District are as specified in this section and in the District's Boundary Map attached to the ordinance codified in this chapter and on file with the office of the City Clerk.

Western Boundary. A line connecting the western edge of all parcels fronting on the western side of College Avenue in the C-E zoning district from 2832 College to 2992 College but including the City-owned Elmwood parking lot that is accessed from Russell Street, and addresses on Ashby from 2629 to 2648. The parcels along the western boundary are as follows:

Assessor's Book 053:

Block 1695: Parcels 11, 12-1, and 12-2.

Assessor's Book 052:

Block 1568: Parcels 3, 4-1, 5-1, 5-2, 6-2, 7, 9, 11-1, 12-1, 49, 50, 51, 52, 53, 55, and 56.

Block 1573: Parcels 2, 4-1, 6, 14, 15, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, and 103.

Eastern Boundary. A line connecting the eastern edge of all parcels fronting on the eastern side of College Avenue from 2887 College Avenue to 2999 College Avenue and 2701 Webster Street. The parcels along the eastern boundary are as follows:

Assessor's Book 053:

Block 1696: Parcel 15.

Assessor's Book 052:

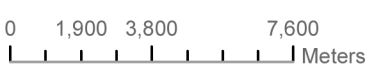
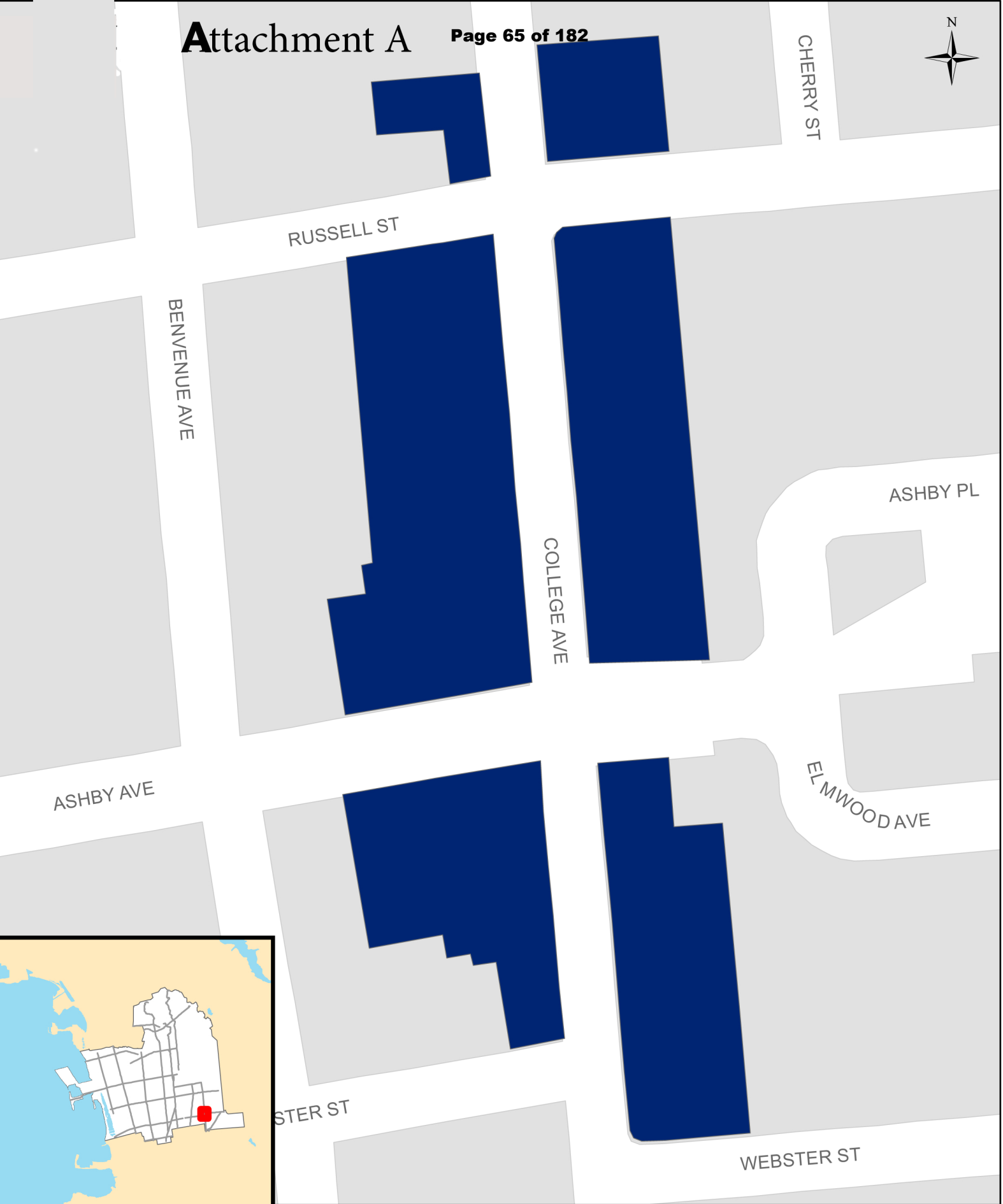
Block 1567: Parcels: 16, 17, 18, 19, 20, 21, 22, 23, 24, 62, 63, 64, 66, 67, 68, 87, 88, 89, 90, and 91.

Southern Boundary. Webster Street.

Northern Boundary. A line connecting the northern edge of parcel 053-1695-011 (2832 College) on the western side of College and the northern edge of parcel 053-1696-015 (2887 College) on the eastern side of College. (Ord. 7317-NS § 3 (part), 2013)

**EXHIBIT B-14**

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10/19



# ELMWOOD BUSINESS IMPROVEMENT DISTRICT

## FAIR CAMPAIGN PRACTICES COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income is required to file campaign reports under the Berkeley Election Reform Act of 1974, or acts as a consultant on campaign matters.

### EXHIBIT B-15

G:\CLERK\CONFLICT CODE\Code Updates\2019 Code\Report\Exhibit B\B-15 Fair Campaign.docx  
10/19

## HOMELESS COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the commission shall disclose all interests in real property located in the City of Berkeley.

In addition, members of the commission shall disclose any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income:

- (1) is engaged in serving the social welfare needs of the homeless in the City of Berkeley;
- (2) owns or manages real property in Berkeley; or
- (3) derives income from the sale of construction supply materials, or performs construction services or renovation services, including landscaping, architectural, and interior decorating.

### EXHIBIT B-16

G:\CLERK\CONFLICT CODE\Code Updates\2019 Code\Report\Exhibit B\B-16 Homeless.docx  
10/19

## HOMELESS SERVICES PANEL OF EXPERTS

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the commission shall disclose all interests in real property located in the City of Berkeley.

In addition, members of the commission shall disclose any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income:

- (1) is engaged in serving the housing or social welfare needs of the homeless in the City of Berkeley;
- (2) owns or manages real property in Berkeley; or
- (3) derives income from the sale of construction materials, or performs construction or renovation services, including landscaping, architectural, and interior decorating.

### EXHIBIT B-17

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10/19



## HOUSING ADVISORY COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Board shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property located in the City of Berkeley; and all sources of income, including gifts, loans, and travel payments..

### EXHIBIT B-18

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10/19

## HUMAN WELFARE AND COMMUNITY ACTION COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose business entities and non-profit organizations in which they have an investment or are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization or source of income is of the type which receives funds under contract with the City of Berkeley to serve the social welfare needs of the people of Berkeley.

### EXHIBIT B-19

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10/19

## JOINT POWERS FINANCING AUTHORITY APPENDIX

### Designated Officials

Members of the Authority

### Disclosure Category

Members of the Authority shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property located in the City of Berkeley; and all sources of income, including gifts, loans, and travel payments.

### EXHIBIT B-20

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**JOINT SUBCOMMITTEE ON THE IMPLEMENTATION OF STATE HOUSING LAWS  
APPENDIX**

**Designated Officials**

Members of the Commission

**Disclosure Category**

All members of the Board shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property located in the City of Berkeley; and all sources of income, including gifts, loans, and travel payments.

**EXHIBIT B-21**

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10/19

## LANDMARKS PRESERVATION COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose any interest in real property located in the City of Berkeley consisting in whole or in part of a building more than 40 years old. In addition, members of the Commission shall disclose any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income has an interest in real property located in the City of Berkeley consisting in whole or in part of a building more than 40 years old.

### EXHIBIT B-22

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## LOAN ADMINISTRATION BOARD APPENDIX

### Designated Officials

Members of the Board

### Disclosure Category

All members of the Board shall disclose all business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property located in the City of Berkeley; and all sources of income, including gifts, loans, and travel payments.

### EXHIBIT B-23

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10/19

## MEASURE O BOND OVERSIGHT COMMITTEE

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Board shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property located in the City of Berkeley; and all sources of income, including gifts, loans, and travel payments.

#### EXHIBIT B-24

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Committee.docx

10/19

## MENTAL HEALTH COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose business entities and non-profit organizations in which they have an investment or are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income is of the type which has received mental health funds administered by the City of Berkeley.

In addition, members of the Commission shall disclose any interest in real property located within 1/4 mile of any clinical mental health site operated by the City of Berkeley or supported in whole or in part by funds administered by the City of Berkeley.

### EXHIBIT B-25

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10/19



OVERSIGHT BOARD APPENDIX

**Designated Employees**

**Disclosure Categories**

Members of the Board

1

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property located in the City of Berkeley; and all sources of income, including gifts, loans and travel payments.

## PARKS AND WATERFRONT COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All Members of the Commission shall disclose:

- (a) all interest in real property within  $\frac{1}{4}$  mile of any Berkeley park, mini-park or municipal recreation facility or within  $\frac{1}{4}$  mile of any open space suitable for development into a park or mini-park; and
- (b) any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income is engaged in park design, construction, maintenance or renovation or in the manufacture, distribution or repair of park, recreation or playground equipment; and
- (c) all interests in real property located on or within  $\frac{1}{4}$  mile of the Berkeley Waterfront, including any leasehold interest in berths at the Berkeley Marina; and
- (d) any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization or source of income:
  - i. is located on the Berkeley Waterfront;
  - ii. has an interest in real property on the Waterfront; or
  - iii. does business, has done business within the previous two years, or plans to do business on the Berkeley Waterfront, including but not limited to architects, engineers, real estate developers, building contractors, lawyers and others involved in projects or proposals on the Berkeley Waterfront.

### EXHIBIT B-27

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10/19

## PEACE AND JUSTICE COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose business entities, non-profit organizations, and financial institutions in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income:

- (1) has applied for, is receiving or within the previous two years has received funds through the City of Berkeley to serve the goal of creating a world community in which the relations between people are based on equality and respect for human rights, or the abhorrence of exploitation and oppression;
- (2) has profited from the manufacture, sale, development, or testing of any weapon, or any device, substance, chemical, or geological agent, which is designed or used principally as a means of individual or mass destruction; or
- (3) is from individuals who control or serve as directors of financial institutions.

### EXHIBIT B-28

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10/19

## PERSONNEL BOARD APPENDIX

### Designated Officials

Members of the Board

### Disclosure Category

All members of the Board shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or the source of income is:

- (1) a union or other organization which represents or has sought to represent employees in collective bargaining; or
- (2) a health plan, an insurance company, or a financial institution offering services of the type made available as fringe benefits to unrepresented employees of the City of Berkeley.

### EXHIBIT B-29

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10/19

## PLANNING COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property located in the City of Berkeley; and all sources of income, including gifts, loans, and travel payments.

### EXHIBIT B-30

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10/19

## POLICE REVIEW COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income:

- (a) manufactures, distributes, sells or otherwise markets weapons, ammunition, or other law enforcement equipment;
- (b) is of the type which offers law enforcement training courses considered by the Commission; or
- (c) is a member of the Berkeley Police Department.

### EXHIBIT B-31

G:\CLERK\CONFLICT CODE\Code Updates\2019 Code\Report\Exhibit B\B-31 Police Review COM.docx  
10/19

**PUBLIC WORKS COMMISSION APPENDIX**

**Designated Officials**

Members of the Commission

**Disclosure Category**

All members of the Commission shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all sources of income, including gifts, loans, and travel payments; and all interests in real property located in the City of Berkeley.

**EXHIBIT B-32**

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10/19

**SOLANO AVENUE BUSINESS IMPROVEMENT DISTRICT  
ADVISORY BOARD APPENDIX**

**Designated Officials**

Board Members

**Disclosure Category**

All members of the Board shall disclose all interests in real property located on or within one mile of the Solano Avenue Business Improvement District as defined in Attachment A to this Appendix, and any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income; if the business entity, non-profit organization, or source of income is:

- (a) located in or within one mile of the Solano Avenue Business Improvement District;
- (b) has an interest in real property located in or within one mile of the Solano Avenue Business Improvement District; or
- (c) does business, has done business within the previous two years, or plans to do business in or within one mile of the Solano Avenue Business Improvement District, including but not limited to architects, engineers, real estate developers, building contractors, lawyers and others involved in projects or proposals located in or within one mile of the Solano Avenue Business Improvement District.

**EXHIBIT B-33**

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10/19



ATTACHMENT A

SOLANO AVENUE BUSINESS IMPROVEMENT DISTRICT  
ADVISORY BOARD APPENDIX

Boundaries of the Solano Avenue Business Improvement District

**ZONE A**

Includes all businesses on real estate parcels with frontage on Solano Avenue or in the C-SO zone between The Alameda and the Berkeley/Albany line.

Northern Boundary:

A line connecting the northern edges of all parcels fronting on the northern side of Solano Avenue or in the C-SO zone from the Albany Town Line to The Alameda. The parcels along the northern boundary are as follows:

Assessor's Map 62:

Block 2848: Parcels 13 and 14

Block 2870: Parcels 16,17-2, 18,19 and 20

Block 2872: Parcels 17,18,19, 20, 21, 22, 23, 24, 25 and 26

Block 2871: Parcels 7-2, 10, 11, 12-1, 15-1, 16-1, 19, 20, 21 and 22

Assessor's Map 61:

Block 2602: Parcels 2, 3-1, 3-2, 4, 5, 5-1, 6, 8, 9, 33-1, 35-4, 37, 38, 40-1, 43-1,44-1, 45, 46, 47, 48, 49, 50 and 51

Eastern Boundary

The western edge of The Alameda

Southern Boundary

1. A line connecting the southern edges of all parcels fronting on the southern side of Solano Avenue or in the C-SO zone from The Alameda to the Albany Town Line. The parcels along the southern boundary are as follows:

Assessor's Map 61

Block 2603: Parcels 1,3-3 and 4

Block 2611: Parcels 1-2, 4, 25-3, 25-4 and 28-1

Block 2612: Parcels 1 and 2

Block 2613: Parcels 1-1, 5-1 and 6

Block 2614: Parcels 1, 2, 3, 4 and 22 through 28

2. The northern edge of Solano Avenue from Tulare Avenue to a point approximately 100 feet west of Neilson Street.

**EXHIBIT B-33**

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10/19

ATTACHMENT A

SOLANO AVENUE BUSINESS IMPROVEMENT DISTRICT  
ADVISORY BOARD APPENDIX

Western Boundary  
The Albany Town Line

**ZONE B**

Includes all businesses within the boundaries of the District on parcels not fronting on Solano Avenue between The Alameda and the Berkeley/Albany line or in the C-SO zone. The boundaries of the Zone B areas are as follows:

Area 1

A line around the three parcels immediately south of Zone A on the western edge of The Alameda. This area includes the following parcels:

**Assessor's Map 61**

Block 2603: Parcels 5, 6, and 7

Area 2

A line around the block enclosed by the eastern edge of The Alameda, the southern edge of Solano Avenue, the western edge of Contra Costa Avenue and the northern Edge of Los Angeles Avenue. This area includes the following parcels:

**Assessor's Map 61**

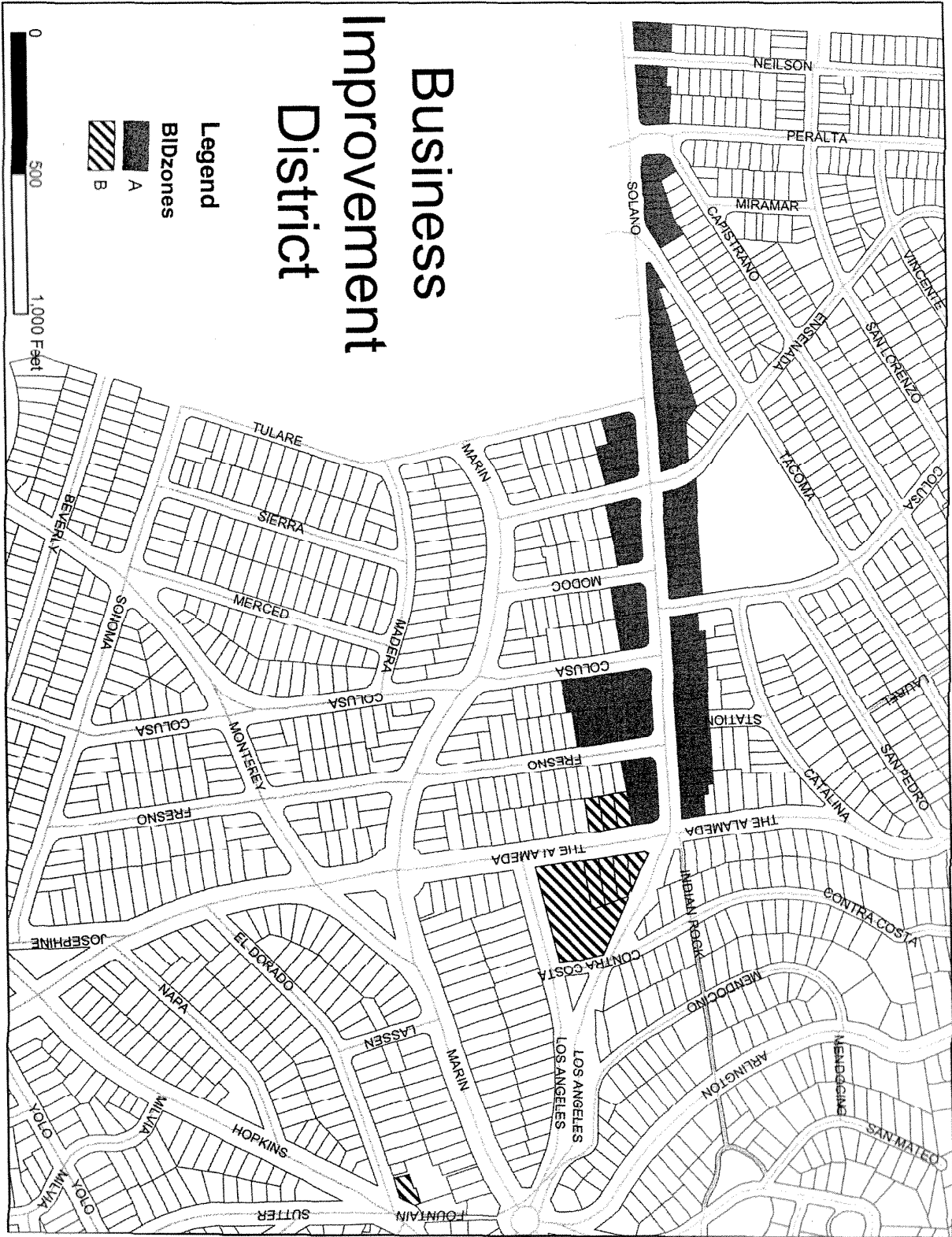
Block 2575: Parcels 40-1, 41, 42, 43 and 44

Area 3

A line around Parcel 3-7, Block 2571, Assessor's Map 61

**EXHIBIT B-33**

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10/19



**SUCCESSOR AGENCY APPENDIX**

| <b>Designated Officials and Employees</b> | <b>Disclosure Categories</b> |
|-------------------------------------------|------------------------------|
| Members of the Successor Agency           | 1                            |
| Staff of the Agency                       | 1                            |

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property located in the City of Berkeley; and all sources of income, including gifts, loans and travel payments.

## SUGAR-SWEETENED BEVERAGE PRODUCT PANEL OF EXPERTS APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization or source of income:

- (1) provides services related to youth food and nutrition programs or school-based food and nutrition programs;
- (2) provides childhood nutrition education;
- (3) provides health care services that address diabetes, weight or other conditions that result from consumption of sugar; or
- (4) conducts public health research related to categories 1, 2 or 3 above.

Members of the Commission shall also disclose employment by or income from Berkeley Unified School District.

### EXHIBIT B-35

G:\CLERK\CONFLICT CODE\Code Updates\2019 Code\Report\Exhibit B\B-35 Sugar Sweetened Beverage Product Panel of Experts.docx  
10/19

**SUPPLEMENTAL RETIREMENT AND INCOME PLAN  
"SRIP" COMMITTEE APPENDIX**

**Designated Employees**

Supplemental Retirement and Income Plan "SRIP" Committee Members and Alternates

**Disclosure Category**

All Supplemental Retirement and Income Plan "SRIP" Committee members shall disclose business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property located in the City of Berkeley; and all sources of income, including gifts, loans, and travel payments.

## TRANSPORTATION COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose:

- (a) all interests in real property located in the City of Berkeley;
- (b) all business entities or non-profit organizations, in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and
- (c) all income, including gifts, loans, and travel payments; from (a) or (b) above, or from an individual who has an interest in real property located in the City of Berkeley or who owns or operates a business entity or non-profit organization.

### EXHIBIT B-37

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10/19

## ZERO WASTE COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

Members of the Commission shall disclose any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income is of the type which:

- (a) collects or hauls solid waste;
- (b) builds or operates any solid waste disposal facility, transfer or processing station or resource recovery facility;
- (c) engages in solid waste recycling activities; or
- (d) acts as a consultant to entities or organizations engaged in the above activities.

### EXHIBIT B-38

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10/19



## ZONING ADJUSTMENTS BOARD APPENDIX

### Designated Officials

Members of the Board

### Disclosure Categories

All members of the Board shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property located in the City of Berkeley; and all sources of income, including gifts, loans, and travel payments.

### EXHIBIT B-39

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10/19

# Exhibit C: Conflict of Interest Code – Consultant Appendix

## CONSULTANTS APPENDIX<sup>1</sup>

### Designated Employees

### Disclosure Categories

**Consultants who make (not just recommend) governmental decisions,** such as whether to approve a rate, rule, or regulation, whether to issue, deny, suspend, or revoke any permit, license, application, certificate or similar authorization, adopt or grant City approval to a plan, design, report, study, or adopt or grant City approval of policies, standards, or guidelines for the City or any subdivision thereof

1

**Consultants who act in a staff capacity with the City,** and in that capacity perform the same or substantially all the same duties for the City that would otherwise be performed by an individual holding a designated position in the City’s Conflict of Interest Code.

Disclosure required at the same level as the comparable designated position identified elsewhere in this Code.

### Category 1

Designated consultants assigned to this category shall disclose:

- (a) All business entities or non-profit corporations in which they are a director, officer, partner, trustee, employee or hold a position of management; interests in real property, investments; and income, including gifts, loans and travel payments.<sup>2</sup>
- (b) When the consultant is a corporation or partnership, only individuals from the firm that participate in City decisions or act in a staff capacity must file disclosure statements.

<sup>1</sup> Only consultants who make a governmental decision or act in a staff capacity as defined in 2 Cal. Code Regs. Section 18701, as amended from time to time, shall be subject to economic disclosure requirements.

<sup>2</sup> Consultants who make governmental decisions shall disclose pursuant to the broadest disclosure category in the Code subject to the following limitation:

The chief executive officer may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in the section. Such written determination shall include a description of the consultant’s duties and, based upon that description, a statement of the extent of disclosure requirements. The chief executive officer’s determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

### EXHIBIT C

**Exhibit D: Conflict of Interest Code – Index****DEPARTMENTS**

| <u>EXHIBIT</u> | <u>DEPARTMENT</u>                                          |
|----------------|------------------------------------------------------------|
| A-1            | Auditor's Department Appendix                              |
| A-2            | City Attorney's Office Appendix                            |
| A-3            | City Clerk Department Appendix                             |
| A-4            | City Manager's Department Appendix                         |
| A-5            | Finance Department Appendix                                |
| A-6            | Fire and Emergency Services Department Appendix            |
| A-7            | Health, Housing and Community Services Department Appendix |
| A-8            | Human Resources Department Appendix                        |
| A-9            | Information Technology Department Appendix                 |
| A-10           | Library Department Appendix                                |
| A-11           | Mayor and Council Department Appendix                      |
| A-12           | Parks, Recreation & Waterfront Department Appendix         |
| A-13           | Planning and Development Department Appendix               |
| A-14           | Police Department Appendix                                 |
| A-15           | Public Works Department Appendix                           |
| A-16           | Rent Stabilization Board Appendix                          |
| A-17           | Retired Annuitant Appendix                                 |

**EXHIBIT D**

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10/19

**EXHIBIT D: LISTING OF ALL BERKELEY CONFLICT OF INTEREST CODE  
DEPARTMENT, COMMISSION AND CONSULTANT APPENDICES**

**BOARDS AND COMMISSIONS**

| <u>EXHIBIT</u> | <u>COMMISSION</u>                                    |
|----------------|------------------------------------------------------|
| B-1            | Animal Care Commission Appendix                      |
| B-2            | Berkeley Energy Commission Appendix                  |
| B-3            | Board of Library Trustees Appendix                   |
| B-4            | Cannabis Commission                                  |
| B-5            | Children, Youth, and Recreation Commission Appendix  |
| B-6            | Civic Arts Commission Appendix                       |
| B-7            | Commission on Aging Appendix                         |
| B-8            | Commission on Disability Appendix                    |
| B-9            | Commission on Labor Appendix                         |
| B-10           | Community Environmental Advisory Commission Appendix |
| B-11           | Community Health Commission Appendix                 |
| B-12           | Design Review Committee Appendix                     |
| B-13           | Disaster and Fire Safety Commission Appendix         |
| B-14           | Elmwood Business Improvement District Advisory Board |
| B-15           | Fair Campaign Practices Commission Appendix          |
| B-16           | Homeless Commission Appendix                         |
| B-17           | Homeless Services Panel of Experts                   |
| B-18           | Housing Advisory Commission Appendix                 |

**EXHIBIT D**

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10/19

**EXHIBIT D: LISTING OF ALL BERKELEY CONFLICT OF INTEREST CODE  
DEPARTMENT, COMMISSION AND CONSULTANT APPENDICES**

**BOARDS AND COMMISSIONS cont'd**

| <u>EXHIBIT</u> | <u>COMMISSION</u>                                                   |
|----------------|---------------------------------------------------------------------|
| B-19           | Human Welfare and Community Action Commission Appendix              |
| B-20           | Joint Powers Financing Authority Appendix                           |
| B-21           | Joint Subcommittee on the Implementation of State Housing Laws      |
| B-22           | Landmarks Preservation Commission Appendix                          |
| B-23           | Loan Administration Board Appendix                                  |
| B-24           | Measure O Bond Oversight Committee                                  |
| B-25           | Mental Health Commission Appendix                                   |
| B-26           | Oversight Board Appendix                                            |
| B-27           | Parks and Waterfront Commission Appendix                            |
| B-28           | Peace and Justice Commission Appendix                               |
| B-29           | Personnel Board Appendix                                            |
| B-30           | Planning Commission Appendix                                        |
| B-31           | Police Review Commission Appendix                                   |
| B-32           | Public Works Commission Appendix                                    |
| B-33           | Solano Avenue Business Improvement District Advisory Board Appendix |
| B-34           | Successor Agency Appendix                                           |
| B-35           | Sugar-Sweetened Beverage Product Panel of Experts                   |

**EXHIBIT D**

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10/19

**EXHIBIT D: LISTING OF ALL BERKELEY CONFLICT OF INTEREST CODE  
DEPARTMENT, COMMISSION AND CONSULTANT APPENDICES**

**BOARDS AND COMMISSIONS cont'd**

- |      |                                                                      |
|------|----------------------------------------------------------------------|
| B-36 | Supplemental Retirement and Income Plan (SRIP)<br>Committee Appendix |
| B-37 | Transportation Commission Appendix                                   |
| B-38 | Zero Waste Commission Appendix                                       |
| B-39 | Zoning Adjustments Board Appendix                                    |

**EXHIBIT D**

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**EXHIBIT D: LISTING OF ALL BERKELEY CONFLICT OF INTEREST CODE  
DEPARTMENT, COMMISSION AND CONSULTANT APPENDICES**

**CONSULTANTS**

C

Appendix applies to all Consultants

**EXHIBIT D**

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10/19

**AUDITOR'S DEPARTMENT APPENDIX**

| <b>Designated Employees</b>                | <b>Disclosure Categories</b> |
|--------------------------------------------|------------------------------|
| City Auditor                               | 1                            |
| Audit Manager                              | 1                            |
| Auditor II                                 | 1                            |
| Auditor I                                  | 1                            |
| Deputy City Auditor for Payroll Management | 1                            |
| Senior Auditor                             | 1                            |

**Disclosure Categories**

**Category 1**

All designated employees shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income, including gifts, loans and travel payments.

**EXHIBIT A-1**



**CITY ATTORNEY'S OFFICE APPENDIX**

**Designated Employees**

**Disclosure Categories**

**Administration**

|                                   |   |
|-----------------------------------|---|
| City Attorney                     | 1 |
| Assistant City Attorney           | 1 |
| Deputy City Attorney I, II, & III | 1 |
| Paralegal                         | 1 |

**Disclosure Categories**

**Category 1**

All designated employees shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income, including gifts, loans and travel payments.

**CITY CLERK DEPARTMENT APPENDIX**

| <b>Designated Employees</b>  | <b>Disclosure Categories</b> |
|------------------------------|------------------------------|
| City Clerk                   | 1                            |
| Deputy City Clerk            | 1                            |
| Assistant City Clerk         | 1                            |
| Assistant Management Analyst | 1                            |

**Disclosure Categories**

**Category 1**

All designated employees assigned to this category shall disclose all business entities, and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income, including gifts, loans and travel payments.

## CITY MANAGER'S DEPARTMENT APPENDIX

## Designated Employees

## Disclosure Categories

**Administration**

|                                    |              |
|------------------------------------|--------------|
| City Manager                       | 1            |
| Deputy City Manager                | 1            |
| Assistant City Manager             | 1            |
| Assistant to the City Manager      | 1            |
| Administrative Hearing Examiner    | 1            |
| Senior Management Analyst          | 1            |
| Associate Management Analyst       | 1            |
| Assistant Management Analyst       | 1            |
| <del>Principal Planner</del>       | <del>1</del> |
| Community Services Specialist III  | 1            |
| Digital Communications Coordinator | 1            |

**Animal Care Services**

|                                  |   |
|----------------------------------|---|
| Animal Services Manager          | 1 |
| Registered Veterinary Technician | 1 |

**Code Enforcement Group**

|                             |   |
|-----------------------------|---|
| Code Enforcement Supervisor | 1 |
| Code Enforcement Officer    | 1 |

|                              |              |
|------------------------------|--------------|
| <del>Assistant Planner</del> | <del>1</del> |
|------------------------------|--------------|

**EXHIBIT A-4**

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**City Manager's Department Appendix**  
**Page 2**

**Designated Employees**

**Disclosure Categories**

**Office of Economic Development**

|                                                      |              |
|------------------------------------------------------|--------------|
| Manager of Economic Development                      | 1            |
| <del>Community Services Specialist III</del>         | <del>1</del> |
| Economic Development Project Coordinator             | 1            |
| <del>Community Development Project Coordinator</del> | <del>1</del> |
| Assistant Management Analyst                         | <u>41</u>    |
| Civic Arts Coordinator                               | <u>41</u>    |

**Office of Budget and Fiscal Management**

|                                         |              |
|-----------------------------------------|--------------|
| Budget Manager                          | 1            |
| Senior Management Analyst               | 1            |
| <del>Associate Management Analyst</del> | <del>1</del> |

**Police Review Commission Staff**

|                                       |   |
|---------------------------------------|---|
| Police Review Commission Officer      | 3 |
| Police Review Commission Investigator | 3 |

**EXHIBIT A-4**

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**City Manager's Department Appendix  
Page 3**

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category shall disclose all business entities, and non-profit organizations in which they have an investment or in which they are a director officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income, including gifts, loans and travel payments.

**Category 2**

Designated employees assigned to this category shall disclose business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income manufactures, distributes, sells or otherwise provides goods or services of the type utilized by the division or program to which the designated employee is assigned.

**Category 3**

Designated employees assigned to this category shall disclose any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization, or source of income:

- (a) manufactures, distributes, sells or otherwise markets weapons, ammunition, or other law enforcement equipment;
- (b) is of the type which offers law enforcement training courses considered by the Police Review Commission; or
- (c) is a member of the Berkeley Police Department.

**Category 4**

Designated employees assigned to this category shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income including gifts, loans and travel payments, business entities, and non-profit organizations whose sources of income is in the music, theater, dance or fine arts communities, including individual artists, arts organizations and other groups promoting the arts.

**EXHIBIT A-4**

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## FINANCE DEPARTMENT APPENDIX

| Designated Employees | Disclosure Categories |
|----------------------|-----------------------|
|----------------------|-----------------------|

**Administration**

|                               |          |
|-------------------------------|----------|
| Director of Finance           | 1        |
| Systems Accountant            | 1        |
| <u>Senior Systems Analyst</u> | <u>1</u> |

**Accounting Division**

|                    |   |
|--------------------|---|
| Accounting Manager | 1 |
| Senior Accountant  | 2 |

**Treasury Division**

|                                       |              |
|---------------------------------------|--------------|
| <del>Revenue Collection Manager</del> | <del>1</del> |
| Revenue Development Supervisor        | 1            |
| Revenue Development Specialist II     | 1            |
| Treasury Manager                      | 1            |

**Revenue Collections Division**

|                            |   |
|----------------------------|---|
| Revenue Collection Manager | 1 |
|----------------------------|---|

**General Services Division**

|                          |   |
|--------------------------|---|
| General Services Manager | 1 |
| Senior Buyer             | 1 |
| Buyer                    | 1 |

**EXHIBIT A-5**

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**Finance Department Appendix  
Page 2**

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category shall disclose all business entities and non-profit organizations in which they have an investment or in which are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income including gifts, loans and travel payments.

**Category 2**

Designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income:

- (a) is a financial institution or is otherwise eligible under state law to have city funds, including pension, retirement and deferred compensation funds, deposited with it or invested in it;
- (b) is of the type which has provided services, including but not limited to professional advice on investment, bond, tax or legal matters, to the Finance Department within the previous two years;
- (c) is subject to a City of Berkeley licensing requirement; or
- (d) provides real property sales or management services or owns or operates real property of the type leased or purchased by the City of Berkeley within the previous two years.

**EXHIBIT A-5**

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## FIRE AND EMERGENCY SERVICES DEPARTMENT APPENDIX

## Designated Employees

## Disclosure Categories

## Fire - Office of the Chief

|                                          |             |
|------------------------------------------|-------------|
| Fire Chief                               | 1           |
| <u>Fire Captain I/II</u>                 | <u>2, 3</u> |
| Administrative & Fiscal Services Manager | 1           |
| <u>Associate Management Analyst</u>      | <u>3</u>    |

## Training

|                      |      |
|----------------------|------|
| Assistant Fire Chief | 1    |
| Fire Captain I/II    | 2, 3 |
| Paramedic Supervisor | 2, 3 |

## Operations

|                      |      |
|----------------------|------|
| Deputy Fire Chief    | 1    |
| Assistant Fire Chief | 1    |
| Battalion Chief      | 1    |
| Fire Captain I/II    | 2, 3 |

## Fire Prevention

|                                     |      |
|-------------------------------------|------|
| Fire Marshal                        | 1    |
| Deputy Fire Marshal                 | 1    |
| Fire Prevention Inspectors          | 2    |
| Fire and Life Safety Plans Examiner | 2, 4 |



**Fire and Emergency Services Department Appendix  
Page 2**

**Designated Employees**

**Disclosure Categories**

**Fire Prevention (Continued)**

~~Assistant Management Analyst 2, 4~~

**Special Operations Division  
Office of Emergency Services/Emergency Medical Services**

Assistant Fire Chief 1

~~Associate Management Analyst 4~~

Emergency Services Coordinator 4

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property, and all sources of income, including gifts, loans and travel payments.

**Category 2**

Designated employees assigned to this category shall disclose any interest in commercial, industrial, or institutional real property; in residential rental property consisting of three or more units; or any other property subject to fire inspection. In addition, designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income:

- (a) owns, manages, or operates real property of the type subject to fire inspection; or
- (b) is in the building and construction industry, including but not limited to architects, developers, contractors, sub-contractors, materials suppliers or consultants.

**EXHIBIT A-6**

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**Fire and Emergency Services Department Appendix  
Page 3**

**Disclosure Categories (Continued)**

**Category 3**

Designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income manufactures, distributes, sells, leases or otherwise provides goods, equipment, or services of the type utilized by the Fire and Emergency Services Department.

**Category 4**

Designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income manufactures, distributes, sells, leases or otherwise provides goods, equipment or services of the type utilized by the division or program of the Fire and Emergency Services Department to which the designated employee is assigned.

**EXHIBIT A-6**

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## HEALTH, HOUSING AND COMMUNITY SERVICES DEPARTMENT APPENDIX

| Designated Employees                                    | Disclosure Categories |
|---------------------------------------------------------|-----------------------|
| <b>Office of the Director</b>                           |                       |
| Administrative & Fiscal Services Manager                | 1                     |
| Associate Management Analyst                            | 2                     |
| Director of Health, Housing & Community Services        | 1                     |
| Deputy Director of Health, Housing & Community Services | 1                     |
| Senior Management Analyst                               | 2                     |
| <b>Aging Services Division</b>                          |                       |
| Manager of Aging Services                               | 1                     |
| Mental Health Clinical Supervisor                       | 4, 6                  |
| Senior Citizen Center Director                          | 4, 6                  |
| Senior Health Services Program Specialist               | 4, 6                  |
| <del>Senior Behavioral Health Clinician</del>           | <del>4, 6</del>       |
| <u>Transportation Services Coordinator</u>              | <u>4, 6</u>           |

**Health, Housing and Community Services Department Appendix  
Page 2**

**Designated Employees**

**Disclosure Categories**

**Housing and Community Services Division**

|                                                  |          |
|--------------------------------------------------|----------|
| Associate Management Analyst                     | 6        |
| Associate Planner                                | 8        |
| Community Development Project Coordinator        | 1        |
| Manager of Housing and Community Services        | 1        |
| Community Services Specialist I                  | 4, 8     |
| Community Services Specialist II, III            | 8        |
| Employment Programs Administrator                | 1        |
| Senior Community Development Project Coordinator | 1        |
| <u>Homeless Services Coordinator</u>             | <u>8</u> |

**Environmental Health**

|                                            |          |
|--------------------------------------------|----------|
| Environmental Health Supervisor            | 1        |
| Manager of Environmental Health            |          |
| Registered Environmental Health Specialist | 1<br>8   |
| <u>Senior Management Analyst</u>           | <u>2</u> |
| Senior Environmental Health Specialist     | 1        |
| Vector Control Technician                  | 8        |

**Mental Health**

|                                  |             |
|----------------------------------|-------------|
| <u>Clinical Psychologist</u>     | <u>4, 6</u> |
| Community Services Specialist II | 4           |

**EXHIBIT A-7**

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**Health, Housing and Community Services Department Appendix  
Page 3**

**Designated Employees**

**Disclosure Categories**

**Mental Health (continued)**

|                                                        |              |
|--------------------------------------------------------|--------------|
| Health Services Program Specialist                     | 2            |
| Manager of Mental Health Services                      | 1            |
| <del>Assistant Manager of Mental Health Services</del> | <del>1</del> |
| Mental Health Clinical Supervisor                      | 4, 6         |
| Mental Health Program Supervisor                       | 2            |
| <del>Supervising Psychiatrist Supervisor</del>         | <del>1</del> |

**Public Health**

|                                                        |                 |
|--------------------------------------------------------|-----------------|
| Manager of Public Health Services                      | 1               |
| Health Nutrition Program Coordinator                   | 4, 6            |
| Health Officer                                         | 1               |
| Health Services Supervisor                             | 1               |
| <del>Manager, Family Health and Nursing Services</del> | <del>1</del>    |
| Senior Health Services Program Specialist              | 4, 6            |
| Supervising Public Health Nurse                        | 4, 6            |
| Health Services Program Specialist                     | 3               |
| <del>Senior Health Management Analyst</del>            | <del>4, 6</del> |
| <del>Epidemiologist</del>                              | <del>8</del>    |

**EXHIBIT A-7**

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## Health, Housing and Community Services Department Appendix Page 4

### Disclosure Categories

#### Category 1

Designated employees assigned to this category shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income, including gifts, loans and travel payments.

#### Category 2

Designated employees assigned to this category shall disclose business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income manufactures, distributes, sells or otherwise provides goods or services of the type utilized by any division or program in the Department of Health, Housing and Community Services.

#### Category 3

Designated employees assigned to this category shall disclose any interest in real property located within a Berkeley target area or neighborhood strategy area. In addition they shall also disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income including gifts, loans and travel payments; if the business entity, non- profit organization or source of income is:

- a) a building contractor or subcontractor of the type performing work under Berkeley Housing Rehabilitation Programs; or
- b) is from individuals who have applied for or received housing rehabilitation assistance from the City of Berkeley within the previous two years.

#### Category 4

Designated employees assigned to this category shall disclose business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income manufactures, distributes, sells or otherwise provides goods or services of the type utilized by the division or program in the Department of Health, Housing and Community Services to which the designated employee is assigned.

#### EXHIBIT A-7

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**Health, Housing and Community Services Department Appendix  
Page 5**

**Disclosure Categories (Continued)**

**Category 5**

Designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income:

- a) manufactures, distributes, sells installs or otherwise markets equipment for energy conservation or alternative energy development; or
- b) provides services, including but not limited to design, repair, advocacy or consultation services, in the areas of energy conservation or alternative energy development.

**Category 6**

Designated employees assigned to this category shall disclose all business entities or non-profit organizations in which they have an investment, or in which they are a director, officer, partner, trustee, employee or hold any position of management and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income is of the type which receives funds under contract with the City of Berkeley to:

- a) Serve the social welfare needs of the people of Berkeley; or
- b) Provide health services, including but not limited to emergency services, obstetric, gynecological or maternity care, care for chronic or communicable diseases, and mental health; or
- c) Provide services to the aging; or
- d) Lease, own, or operate real property of the type suitable for the program or services under the supervision of the designated employee; or of the type suitable to be leased, owned, or operated by the City of Berkeley for health programs under the supervision of the designated employee.

**EXHIBIT A-7**

**Health, Housing and Community Services Department Appendix  
Page 6**

**Disclosure Categories (Continued)**

**Category 7**

Designated employees assigned to this category shall disclose any interest in real property consisting in whole or in part of residential rental property. In addition, they shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity or source of income has an interest in, operates or manages residential rental property.

**Category 8**

Designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income:

- a) is of the type whose contracts with the City of Berkeley are monitored by the Department of Health, Housing and Community Services or which receives funds under contract with the City of Berkeley to serve the social welfare needs of the people of the Berkeley; or
- b) is of the type which manufactures, distributes, sells or otherwise provides goods or services of the type utilized by the designated employee's division of the Department of Health, Housing and Community Services.

**EXHIBIT A-7**



**Health, Housing and Community Services Department Appendix  
Page 7**

**Disclosure Categories (Continued)**

**Category 9**

Designated employees assigned to this category shall disclose all business entities or non-profit organizations in which they have an investment, or in which they are a director, officer, partner, trustee, employee or hold any position of management; any interest in real property within one-fourth mile of any Berkeley Senior Center and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income is of the type which receives funds under contract with the City of Berkeley to:

- a) Serve the social welfare needs of the people of Berkeley; or
- b) Provide health services, including but not limited to emergency services, care for chronic or communicable diseases, and mental health; or
- c) Provide services to the aging; or
- d) Lease, own, or operate real property of the type suitable for the program or services under the supervision of the designated employee; or of the type suitable to be leased, owned, or operated by the City of Berkeley for community services programs under the supervision of the designated employee.

**EXHIBIT A-7**

## HUMAN RESOURCES DEPARTMENT APPENDIX

| <b>Designated Employees</b>                       | <b>Disclosure Categories</b> |
|---------------------------------------------------|------------------------------|
| Director of Human Resources                       | 1                            |
| Equal Employment, Opportunity & Diversity Officer | 1                            |
| Employee Relations Manager                        | 1                            |
| Occupational Health and Safety Officer            | 2, 3                         |
| Occupational Health and Safety Specialist         | 3                            |
| Senior Human Resources Analyst                    | 2, 3                         |
| Training Officer                                  | 2                            |
| Worker's Compensation Analyst                     | 3                            |
| <b>Benefits</b>                                   |                              |
| Associate Human Resources Analyst                 | 3                            |

### **Disclosure Categories**

#### **Category 1**

Designated employees in this category shall disclose all business entities and non-profit organizations in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property and all sources of income, including gifts, loans and travel payments.

**Human Resources Department Appendix  
Page 2**

**Disclosure Categories (Continued)**

**Category 2**

Designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income including gifts, loans and travel payments; if the business entity, non-profit organization or source of income:

- (a) is a labor union; or
- (b) is of the type which has provided the Human Resources Department within the previous two years with testing materials or services, or with services of any other kind including but not limited to consultant services or medical examination services; or
- (c) provides training, organizational development or facilitator services.

**Category 3**

Designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or are a director, officer, partner, trustee, employee or hold any position of management; and income including gifts, loans and travel payments; if the business entity, non-profit organization or source of income is of the type which provides insurance of any kind, including but not limited to workers' compensation, health, life or liability insurance or related services.

## DEPARTMENT OF INFORMATION TECHNOLOGY APPENDIX

| Designated Employees | Disclosure Categories |
|----------------------|-----------------------|
|----------------------|-----------------------|

|                                       |          |
|---------------------------------------|----------|
| Director of Information Technology    | 1        |
| <u>Senior Management Analyst</u>      | <u>1</u> |
| Senior Systems Analyst                | 1        |
| Senior Information Systems Specialist | 1        |
| Customer Service Manager              | 1        |
| Information Systems Manager           | 1        |
| Application Programmer Analyst II     | 1        |
| Information Security Manager          | 1        |
| Database Administrator                | 1        |

**Disclosure Categories****Category 1**

Designated employees assigned to this category shall disclose all business entities, and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income, including gifts, loans and travel payments.

**EXHIBIT A-9**

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## LIBRARY DEPARTMENT APPENDIX

| <b>Designated Employees</b>                            | <b>Disclosure Categories</b> |
|--------------------------------------------------------|------------------------------|
| <b>Administration Services</b>                         |                              |
| Director of Library Services                           | 1                            |
| Deputy Director of Library Services                    | 1                            |
| Administrative & Fiscal Services Manager               | 1                            |
| <b>Circulation Services Division</b>                   |                              |
| Circulation Services Manager                           | 1                            |
| <b>Children's/Neighborhood Services Division</b>       |                              |
| Library Services Manager                               | 1                            |
| <b>Technical Services &amp; Information Technology</b> |                              |
| Library Information Systems Administrator              | 1                            |
| Library Services Manager                               | 1                            |
| <b>Maintenance Division</b>                            |                              |
| Senior Building Maintenance Supervisor                 | 1                            |

**Disclosure Categories****Category 1**

Designated employees assigned to this category shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income, including gifts, loans and travel payments.

**EXHIBIT A-10**

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**MAYOR AND COUNCIL DEPARTMENT APPENDIX**

| <b>Designated Employees</b>                    | <b>Disclosure Categories</b> |
|------------------------------------------------|------------------------------|
| Mayor                                          | 1                            |
| City Councilmembers                            | 1                            |
| Chief of Staff                                 | 1                            |
| Assistant to the Mayor                         | 1                            |
| Legislative Assistant/Administrative Assistant | 1                            |

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income, including gifts, loans and travel payments.

**EXHIBIT A-11**

## PARKS, RECREATION & WATERFRONT DEPARTMENT APPENDIX

| <b>Designated Employees</b>                  | <b>Disclosure Categories</b> |
|----------------------------------------------|------------------------------|
| <b>Office of the Director</b>                |                              |
| Director of Parks, Recreation and Waterfront | 1                            |
| Deputy Director                              | 1                            |
| Senior Management Analyst                    | 1                            |
| Associate Civil Engineer                     | 1                            |
| Supervising Civil Engineer                   | 1                            |
| Capital Improvement Programs Manager         | 1                            |
| <b>Parks Division</b>                        |                              |
| Parks Superintendent                         | 1                            |
| Senior Forestry Supervisor                   | 2, 3                         |
| Senior Landscape Gardener Supervisor         | 2, 3                         |
| Building Maintenance Supervisor              | 2, 3                         |
| Senior Building Maintenance Supervisor       | 2, 3                         |
| <b>Recreation Division</b>                   |                              |
| Recreation and Youth Services Manager        | 1                            |
| Camp Manager                                 | 2, 3, 4                      |
| Recreation Program Supervisor                | 1                            |
| Aquatics Facilities Supervisor               | 3                            |
| Recreation Coordinator                       | 3                            |
| <u>Aquatics Coordinator</u>                  | <u>3</u>                     |

**Parks, Recreation and Waterfront Department Appendix  
Page 2**

**Designated Employees**

**Disclosure Categories**

**Waterfront Division**

|                       |      |
|-----------------------|------|
| Waterfront Manager    | 1    |
| Harbormaster          | 3, 5 |
| Waterfront Supervisor | 2, 5 |

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category shall disclose all business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property and all sources of income, including gifts, loans and travel payments.

**Category 2**

Designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income including gifts, loans and travel payments; if the business entity, non-profit organization or source of income is of the type which manufactures, distributes, sells, leases or otherwise provides the Parks, Recreation & Waterfront Department with:

- (a) goods of any kind, including but not limited to heavy equipment, vehicles, machinery, tools, fuel products or other equipment; or
- (b) services of any kind, including but not limited to building or construction services and consultant services.

**EXHIBIT A-12**



**Parks, Recreation and Waterfront Department Appendix  
Page 3**

**Disclosure Categories (Continued)**

**Category 3**

Designated employees assigned to this category, shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income manufactures, distributes, sells, leases or otherwise provides goods, equipment, machinery, supplies or services of the type used by the division or program of the Parks, Recreation & Waterfront Department to which the designated employee is assigned.

**Category 4**

Designated employees assigned to this category shall disclose all interests in real property. In addition, they shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income:

- (a) owns, operates or manages real property; or
- (b) is a utility; or
- (c) is in the building or construction industry, including but not limited to architects, engineers, building construction contractors or subcontractors, materials suppliers, or consultants.

**Category 5**

Designated employees assigned to this category shall disclose:

- (a) all interests in real property located on or within one-fourth mile of the Berkeley Waterfront, including any leasehold interest in berths at the Berkeley Marina; and
- (b) any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee or employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income:

**EXHIBIT A-12**

**Parks, Recreation and Waterfront Department Appendix  
Page 4**

**Disclosure Categories**

**Category 5 (Continued)**

- (i) is located on the Berkeley Waterfront;
- (ii) has an interest in real property on the Berkeley Waterfront; or does business, has done business within the previous two years, plans to do business on the Berkeley Waterfront, including but not limited to architects, engineers, real estate developers, building contractors, lawyers and others involved in projects or proposals on the Berkeley Waterfront.

## PLANNING AND DEVELOPMENT DEPARTMENT APPENDIX

## Designated Employees

## Disclosure Categories

## Office of the Director / Administration

|                                      |   |
|--------------------------------------|---|
| Director of Planning and Development | 1 |
|--------------------------------------|---|

|                                                       |              |
|-------------------------------------------------------|--------------|
| <del>Administrative and Fiscal Services Manager</del> | <del>1</del> |
|-------------------------------------------------------|--------------|

|                                        |              |
|----------------------------------------|--------------|
| <del>Deputy Director of Planning</del> | <del>1</del> |
|----------------------------------------|--------------|

|                              |   |
|------------------------------|---|
| Associate Management Analyst | 1 |
|------------------------------|---|

|                                         |              |
|-----------------------------------------|--------------|
| <del>Assistant Management Analyst</del> | <del>1</del> |
|-----------------------------------------|--------------|

|                                      |              |
|--------------------------------------|--------------|
| <del>Senior Management Analyst</del> | <del>1</del> |
|--------------------------------------|--------------|

## Permit Service Center

|                           |   |
|---------------------------|---|
| Permit Center Coordinator | 1 |
|---------------------------|---|

|                          |      |
|--------------------------|------|
| Senior Permit Specialist | 2, 4 |
|--------------------------|------|

|                   |      |
|-------------------|------|
| Permit Specialist | 2, 4 |
|-------------------|------|

## Land Use Planning Division

|                           |   |
|---------------------------|---|
| Land Use Planning Manager | 1 |
|---------------------------|---|

|                   |   |
|-------------------|---|
| Principal Planner | 1 |
|-------------------|---|

|                |   |
|----------------|---|
| Senior Planner | 1 |
|----------------|---|

|                   |   |
|-------------------|---|
| Associate Planner | 1 |
|-------------------|---|

|                   |   |
|-------------------|---|
| Assistant Planner | 1 |
|-------------------|---|

|                     |   |
|---------------------|---|
| Planning Technician | 1 |
|---------------------|---|

## Building and Safety Division

|                                                          |   |
|----------------------------------------------------------|---|
| <del>Manager of Building and Safety</del> <u>Manager</u> | 1 |
|----------------------------------------------------------|---|

## EXHIBIT A-13

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**Planning and Development Department Appendix  
Page 2**

**Designated Employees**

**Disclosure Categories**

**Building and Safety Division (Continued)**

|                                                  |                 |
|--------------------------------------------------|-----------------|
| Assistant Building and Safety Manager            | 1               |
| <u>Resilient Buildings Program Manager</u>       | <u>1</u>        |
| Supervising Building Inspector                   | 2, 4            |
| Senior Building Inspector                        | 2, 4            |
| Building Inspector <u>I &amp; II (Certified)</u> | 2, 4            |
| Building Plans Engineer                          | 2, 4            |
| Senior Building Plans Engineer                   | 2, 4            |
| <u>Building Plans Examiner</u>                   | <u>2, 4</u>     |
| Senior Building Plans Examiner                   | 2, 4            |
| <del>Fire and Life Safety Plans Examiner</del>   | <del>2, 4</del> |
| Engineering Inspector                            | 2, 4            |
| <u>Community Services Specialist I</u>           | <u>2, 4</u>     |

**Toxics Management Division**

|                                       |   |
|---------------------------------------|---|
| Hazardous Materials Manager           | 1 |
| Hazardous Materials Specialist I & II | 3 |

**Office of Energy and Sustainable Development**

|                                   |      |
|-----------------------------------|------|
| Energy Program Manager            | 1    |
| Associate Management Analyst      | 2, 4 |
| Community Services Specialist I   | 2, 4 |
| Community Services Specialist II  | 2, 4 |
| Community Services Specialist III | 2, 4 |

**EXHIBIT A-13**

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Planning and Development Department Appendix  
Page 3

**Designated Employees**

**Disclosure Categories**

**Housing Code Enforcement**

|                                     |          |
|-------------------------------------|----------|
| <u>Assistant Management Analyst</u> | <u>1</u> |
| Housing Inspector                   | 1        |
| Housing Inspector (Certified)       | 1        |
| Housing Inspector Supervisor        | 1        |

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category shall disclose all business entities or non-profit organizations in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income including gifts, loans and travel payments.

**Category 2**

Designated employees assigned to this category shall disclose all interests in real property. In addition, they shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income has an interest in real property or is in the building and construction industry, including but not limited to architects, developers, contractors, sub-contractors, materials suppliers or consultants.

**Planning and Development Department Appendix  
Page 4**

**Disclosure Categories (Continued)**

**Category 3**

Designated employees assigned to this category shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income:

- (a) produces, uses, collects or disposes of hazardous and toxic materials; or
- (b) provides consulting services in the areas of source reduction and recycling, and the management, treatment and disposal of hazardous wastes and materials.

**Category 4**

Designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income:

- (a) manufactures, distributes, sells installs or otherwise markets equipment for energy conservation or alternative energy development; or
- (b) provides services, including but not limited to design, repair, advocacy or consultation services, in the areas of energy conservation or alternative energy development.

**POLICE DEPARTMENT APPENDIX**

| <b>Designated Employees</b>              | <b>Disclosure Categories</b> |
|------------------------------------------|------------------------------|
| Chief of Police                          | 1                            |
| Administrative & Fiscal Services Manager | 1                            |
| Police Captain                           | 1                            |

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category shall disclose all business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income, including gifts, loans and travel payments.

## PUBLIC WORKS DEPARTMENT APPENDIX

| Designated Employees | Disclosure Categories |
|----------------------|-----------------------|
|----------------------|-----------------------|

**Office of the Director**

|                                                 |             |
|-------------------------------------------------|-------------|
| Director of Public Works                        | 1           |
| Deputy Director                                 | 1           |
| Senior Management Analyst                       | 2           |
| Associate Management Analyst                    | 2           |
| Administrative & Fiscal Services Manager        | 1           |
| Assistant Management Analyst                    | 2           |
| Disability Services Specialist                  | 2, 4        |
| Community Development Project Coordinator       | 1, 4        |
| <u>Public Works Operations Manager</u>          | <u>1, 4</u> |
| <u>Solid (Zero) Waste and Recycling Manager</u> | <u>1, 5</u> |

**Engineering Division**

|                                                   |                 |
|---------------------------------------------------|-----------------|
| Manager of Engineering                            | 1, 4            |
| <del>Associate Assistant</del> Management Analyst | 3               |
| Associate Civil Engineer                          | 2, 4            |
| Engineering Inspector                             | 2, 6            |
| Chief of Party                                    | 2               |
| <del>Architect</del>                              | <del>2, 4</del> |
| <del>Assistant Architect</del>                    | <del>2, 4</del> |
| Assistant Public Works Engineer                   | 2               |
| Junior Public Works Engineer                      | 2               |



**Public Works Department Appendix  
Page 2**

**Designated Employees**

**Disclosure Categories**

**Engineering Division (continued)**

|                                       |         |
|---------------------------------------|---------|
| Assistant Civil Engineer (Registered) | 2, 4    |
| Supervising Civil Engineer            | 1, 4, 6 |
| Senior Drafting Technician            | 2, 4    |
| Building Inspector                    | 1, 6    |
| Senior Building Inspector             | 2, 6    |
| Environmental Compliance Specialist   | 2, 4    |

**Transportation Division**

|                                                            |          |
|------------------------------------------------------------|----------|
| Transportation Manager                                     | 1        |
| Principal Planner                                          | 1        |
| Senior Planner                                             | 1        |
| Associate Planner                                          | 1        |
| Assistant Planner                                          | 2, 4     |
| Parking Services Manager                                   | 2        |
| Supervising Traffic Engineer                               | 1, 4     |
| Associate Traffic Engineer                                 | 2, 4     |
| Assistant Traffic Engineer                                 | 2, 4     |
| Associate Civil Engineer                                   | 2, 4     |
| Assistant Management Analyst                               | 2        |
| <u>Traffic Maintenance Supervisor</u>                      | <u>2</u> |
| <u>Parking Meter Maintenance and Collection Supervisor</u> | <u>2</u> |

**EXHIBIT A-15**

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**Public Works Department Appendix  
Page 3**

**Designated Employees**

**Disclosure Categories**

**Zero Waste Division**

|                                                     |                |
|-----------------------------------------------------|----------------|
| <u>Solid (Zero) Waste and Recycling Manager</u>     | 1, 5           |
| Senior <u>Solid (Zero) Waste Supervisor</u>         | 2              |
| Recycling Program Manager                           | 3, 5           |
| <u>Solid (Zero) Waste Supervisor</u>                | 3, 5           |
| <u>Public Works (Zero Waste) Operations Manager</u> | <u>1, 4, 5</u> |
| <u>Environmental Compliance Specialist</u>          | <u>1</u>       |
| <u>Field Representative</u>                         | <u>2</u>       |

**Facilities Management Division**

|                                                      |                 |
|------------------------------------------------------|-----------------|
| Environmental Compliance Specialist                  | 3, 7            |
| <del>Community Development Project Coordinator</del> | <del>1, 4</del> |
| Facilities Maintenance Superintendent                | 2, 6            |
| Senior Building Maintenance Supervisor               | 3, 6            |
| Building Maintenance Supervisor                      | 3, 6            |
| <u>Senior Electrical Supervisor</u>                  | <u>1, 4</u>     |
| <u>Lead Communications Technician</u>                | <u>1</u>        |

**Equipment Maintenance**

|                                      |             |
|--------------------------------------|-------------|
| Equipment Maintenance Superintendent | <u>2, 4</u> |
| Senior Equipment Supervisor          | 3           |

**EXHIBIT A-15**

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**Public Works Department Appendix  
Page 4**

**Electrical Division**

|                                          |                 |
|------------------------------------------|-----------------|
| <del>Senior Electrical Supervisor</del>  | <del>2, 6</del> |
| <del>Lead Communication Technician</del> | <del>3, 6</del> |

**Streets Division**

|                                               |              |
|-----------------------------------------------|--------------|
| Public Works Maintenance Superintendent       | 2            |
| Senior Public Works Supervisor                | 3            |
| Assistant Management Analyst                  | <u>32, 4</u> |
| <u>Public Works Supervisor</u>                | <u>3</u>     |
| <u>Sewer Maintenance Assistant Supervisor</u> | <u>3</u>     |

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category shall disclose all business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property; and all sources of income, including gifts, loans and travel payments.

**Category 2**

Designated employees assigned to this category shall disclose entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income including gifts, loans and travel payments; if the business entity, non-profit organization or source of income is of the type which manufactures, distributes, sells, leases or otherwise provides goods or services of the type used by any division or program of the Public Works Department.

**Public Works Department Appendix  
Page 5**

**Disclosure Categories (Continued)**

**Category 3**

Designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income including gifts, loans and travel payments; if the business entity, non-profit organization or source of income manufactures, distributes, sells, leases or otherwise provides goods, equipment, machinery, supplies or services of the type used by the division or program of the Public Works Department to which the designated employee is assigned.

**Category 4**

Designated employees assigned to this category shall disclose all interests in real property. In addition, they shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income:

- (a) owns, operates or manages real property; or
- (b) is a utility; or
- (c) is in the building or construction industry, including but not limited to architects, engineers, building construction contractors or subcontractors, materials suppliers, or consultants.

**Category 5**

Designated employees assigned to this category shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity, non-profit organization or source of income is of the type which:

- (a) collects or hauls solid waste;
- (b) builds or operates any solid waste disposal facility, transfer or processing station or resource recovery facility;
- (c) engages in solid waste recycling activities; or

**EXHIBIT A-15**

**Public Works Department Appendix  
Page 6**

**Disclosure Categories**

**Category 5 (Continued)**

- (d) acts as a consultant to entities or organizations engaged in the above activities.

**Category 6**

Designated employees assigned to this category shall disclose any interest in real property located in an area of Berkeley in which the utility lines have not been undergrounded. In addition, they shall disclose business entities, or non-profit organizations, in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans and travel payments; if the business entity or source of income is a public utility company which does any work related to the provision of utility services, is a construction company or subcontractor of such company or has an interest in real property in an area of Berkeley in which the utility lines have not been undergrounded.

**Category 7**

Designated employees assigned to this category shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income including gifts, loans and travel payments; if the business entity, non-profit organization or source of income:

- (a) produces, uses, collects, stores, or disposes of hazardous or toxic materials; or
- (b) provides consulting services in the areas of source reduction or recycling, or the management, treatment or disposal of hazardous wastes or materials.

## RENT STABILIZATION BOARD APPENDIX

| <b>Designated Officials</b>               | <b>Disclosure Categories</b> |
|-------------------------------------------|------------------------------|
| Commissioners (Board Members)             | 1, 2, 3                      |
| <b>Designated Employees</b>               | <b>Disclosure Categories</b> |
| Executive Director                        | 1, 2, 3                      |
| Deputy Director                           | 1, 2, 3                      |
| Assistant Management Analyst              | 2, 3                         |
| <del>Information Systems Specialist</del> | <del>2, 3</del>              |
| Associate Management Analyst              | 2, 3                         |
| Senior Management Analyst                 | 2, 3                         |
| Administrative Staff Assistant            | 2, 3                         |
| <del>Senior Field Representative</del>    | <del>2</del>                 |
| Community Services Specialist I           | 2, 3                         |
| Community Services Specialist II          | 2, 3                         |
| Community Services Specialist III         | 2, 3                         |
| Senior Hearing Examiner                   | 2, 3                         |
| Hearing Examiners                         | 2, 3                         |
| Chief Counsel                             | 1, 2, 3                      |
| Staff Attorneys I, II & III               | 1, 2, 3                      |
| <del>Principal Planner</del>              | <del>2, 3</del>              |
| Senior Planner                            | 2, 3                         |
| Associate Planner                         | 2, 3                         |
| Assistant Planner                         | 2, 3                         |

## RENT STABILIZATION BOARD APPENDIX

### Page 2

#### Disclosure Categories

##### Category 1

Designated employees assigned to this category shall disclose:

- (a) All investment and interest in, and all sources of income from real property including but not limited to ownership, sale, management, transfer or exchange.
- (b) All investments in and sources of income, including gifts, loans and travel payments from entities which own, sell, manage, transfer or exchange real property.
- (c) Any management position including but not limited to a director, officer, partner or trustee in any business entity or non-profit organization subject to or potentially affected by the regulatory authority of the Rent Board.
- (d) The assuming office statement shall disclose all interests and dealings in real property, including but not limited to ownership, sale, management, transfer or exchange, and interests in entities whose primary purpose is the ownership, sale, management, transfer or exchange of real property, during the previous three years.

##### Category 2

Designated employees assigned to this category shall disclose:

- (a) All investments and interests in and all sources of income from real property, including but not limited to ownership, sale, management, transfer or exchange, subject to the regulatory authority of the Rent Board.
- (b) All investments and business positions in and sources of income, including gifts, loans and travel payments from entities which own, sell, manage, transfer or exchange real property, subject to the regulatory authority of the Rent Board.

##### Category 3

Designated employees assigned to this category shall disclose investments and business positions in business entities, non-profit organizations and sources of income, including gifts, loans and travel payments of the type which, within the past two years, have contracted with the City of Berkeley to provide services, supplies, materials, machinery or equipment to the Board.

#### EXHIBIT A-16

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**RETIRED ANNUITANT APPENDIX**

**Designated Employees**

**Disclosure Categories**

Retired Annuitants who perform the same or substantially all the same duties for the City that would otherwise be performed by an individual holding a designated position in the City's Conflict of Interest Code.

\*

**Disclosure Categories**

\*Disclosure required at the same level as the comparable designated position identified elsewhere in this Code.



## ANIMAL CARE COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income:

- a) provides services, goods, or equipment related to the care, treatment or control of animals; or
- b) does business, has done business within the previous two years, or plans to do business with any city owned animal shelter, including but not limited to architects, engineers, building contractors, lawyers and others involved in projects or proposals connected with the building or modification of any City owned animal shelter.

### EXHIBIT B-1

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## BERKELEY ENERGY COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee, or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income is of the type which:

- (1) is engaged in the building construction trades;
- (2) manufactures, distributes, sells, installs, or otherwise markets equipment for energy conservation or alternative energy development; or
- (3) provides services, including but not limited to design, repair, advocacy, financial, or consultation services, in the areas of energy conservation or alternative energy development.

### EXHIBIT B-2

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## BOARD OF LIBRARY TRUSTEES APPENDIX

### Designated Officials

Members of the Board

### Disclosure Category

Members of the Board shall disclose any interest in real property within a 1/2 mile of any Berkeley municipal library. In addition, members of the Board shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel-payments; if the business entity, non-profit organization, or source of income is of the type which:

- (a) manufactures, repairs, distributes, sells, leases or otherwise markets library materials and equipment including, but not limited to, books, periodicals, art slides or prints, records, and cataloguing equipment or systems; or
- (b) has contracted with the Berkeley Library Department within the previous two years to provide any other kinds of goods or services to the Department.

### EXHIBIT B-3

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## CANNABIS COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose:

- (1) All interests in real property located in the City of Berkeley; and
- (2) Any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization or source of income is of the type which:
  - a) manufactures, distributes, sells, installs, or otherwise markets equipment or supplies for cultivation or consumption of the plant Cannabis sativa L. or any of its derivatives; or
  - b) operates any cannabis business or organization, including collectives and dispensaries; or
  - c) engages in activities or provides services that involve planting, cultivating, harvesting, transporting, dispensing, delivering, selling at retail or wholesale, manufacturing, compounding, converting, processing, preparing, storing, packaging, or testing, any part of the plant Cannabis sativa L. or any of its derivatives.

#### EXHIBIT B-4

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## CHILDREN, YOUTH, AND RECREATION COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All Members of the Commission shall disclose:

- (a) all interests in business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, ~~non-non~~-profit organization or source of income is related to the work in the field of early childhood development, education, childcare, recreational programs and activities, and
  
- (b) all interests in real property within  $\frac{1}{4}$  mile of any Berkeley park, mini-park or municipal recreation facility or within  $\frac{1}{4}$  mile of any open space suitable for development into a park or mini-park.

### EXHIBIT B-4

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Children, Youth & Rec.docx

## CIVIC ARTS COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose business entities, and non-profit organizations in which they have an investment, or in which they are a director, officer, partner, employee, or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income:

- (1) has applied for, is receiving, or within the previous two years has received, funds through the City to advance the Arts in Berkeley;
- (2) has profited from the creation, production, sale, or display of any artistic endeavor;  
or
- (3) has provided services, goods, or equipment to artistic endeavors.

### EXHIBIT B-6

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## COMMISSION ON AGING APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization or source of income has applied for, is receiving or within the previous two years has received funds through the City of Berkeley to provide services to the aging. In addition, members of the Commission shall disclose any interest in real property located within 1/4 mile of any of the Berkeley Senior Centers.

### EXHIBIT B-7

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## COMMISSION ON DISABILITY APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose business entities and non-profit organizations in which they hold an investment or in which they are a director, officer, partner, trustee, employee or have any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income within the previous two years has provided services, goods, or equipment to disabled persons.

### EXHIBIT B-8

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## COMMISSION ON LABOR APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income:

- (1) is a union or other organization which represents or has sought to represent employees or management in collective bargaining; or
- (2) has applied for, is receiving, or within the previous two years has received funds through the City of Berkeley to provide services to organizations whose purpose is to serve the legal rights and economic interests of labor.

### EXHIBIT B-9

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## COMMUNITY ENVIRONMENTAL ADVISORY COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income:

- (a) produces, uses, collects or disposes of hazardous and toxic materials; or
- (b) provides consulting services in the areas of source reduction and recycling, and the management, treatment and dispersal of hazardous wastes and materials.

### EXHIBIT B-10

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## COMMUNITY HEALTH COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose business entities or non-profit organizations in which they have an investment or are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity or non-profit organization provides goods or services relating in any way to the provision, administration or financing of health care or health planning, education and information.

### EXHIBIT B-11

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## DESIGN REVIEW COMMITTEE APPENDIX

### Designated Officials

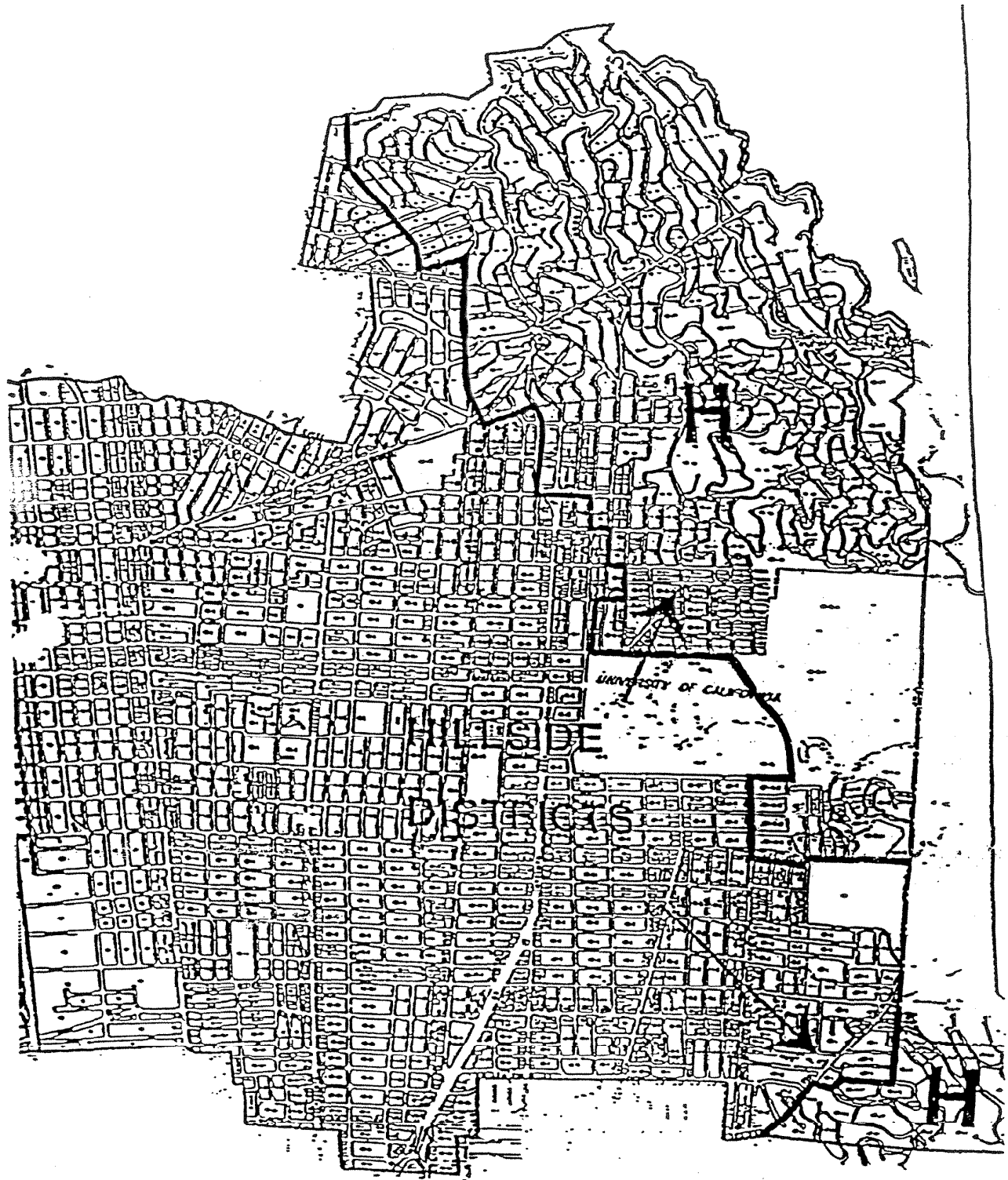
Members of the Committee

### Disclosure Category

All members of the committee shall disclose any interest in real property consisting in whole or in part of a building located in any commercially zoned area in the City of Berkeley. In addition, members of the Committee shall disclose any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income has an interest in real property consisting in whole or in part of a building located in a commercially zoned area; derives income from the sale of construction supply materials; or performs construction services or renovation services including landscaping, architectural, and interior decorating.

### EXHIBIT B-12

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ATTACHMENT A TO DISASTER AND FIRE SAFETY COMMISSION

**ELMWOOD BUSINESS IMPROVEMENT DISTRICT  
ADVISORY BOARD APPENDIX**

**Designated Officials**

Members of the Board

**Disclosure Category**

All members of the Board shall disclose all interests in real property located in or within one mile of the Elmwood Business Improvement District as defined in Attachment A to this Appendix, and any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income; if the business entity, non-profit organization, or source of income is:

- (a) located in or within one mile of the Elmwood Business Improvement District;
- (b) has an interest in real property located in or within one mile of the Elmwood Business Improvement District; or
- (c) does business, has done business within the previous two years, or plans to do business in or within one mile of the Elmwood Business Improvement District, including but not limited to architects, engineers, real estate developers, building contractors, lawyers and others involved in projects or proposals located in or within one mile of the Elmwood Business Improvement District.

**EXHIBIT B-14**

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ATTACHMENT A

ELMWOOD BUSINESS IMPROVEMENT DISTRICT  
ADVISORY BOARD APPENDIX

**7.84.030 Boundaries of district.**

The boundaries of the District are as specified in this section and in the District's Boundary Map attached to the ordinance codified in this chapter and on file with the office of the City Clerk.

Western Boundary. A line connecting the western edge of all parcels fronting on the western side of College Avenue in the C-E zoning district from 2832 College to 2992 College but including the City-owned Elmwood parking lot that is accessed from Russell Street, and addresses on Ashby from 2629 to 2648. The parcels along the western boundary are as follows:

Assessor's Book 053:

Block 1695: Parcels 11, 12-1, and 12-2.

Assessor's Book 052:

Block 1568: Parcels 3, 4-1, 5-1, 5-2, 6-2, 7, 9, 11-1, 12-1, 49, 50, 51, 52, 53, 55, and 56.

Block 1573: Parcels 2, 4-1, 6, 14, 15, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, and 103.

Eastern Boundary. A line connecting the eastern edge of all parcels fronting on the eastern side of College Avenue from 2887 College Avenue to 2999 College Avenue and 2701 Webster Street. The parcels along the eastern boundary are as follows:

Assessor's Book 053:

Block 1696: Parcel 15.

Assessor's Book 052:

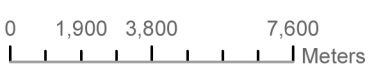
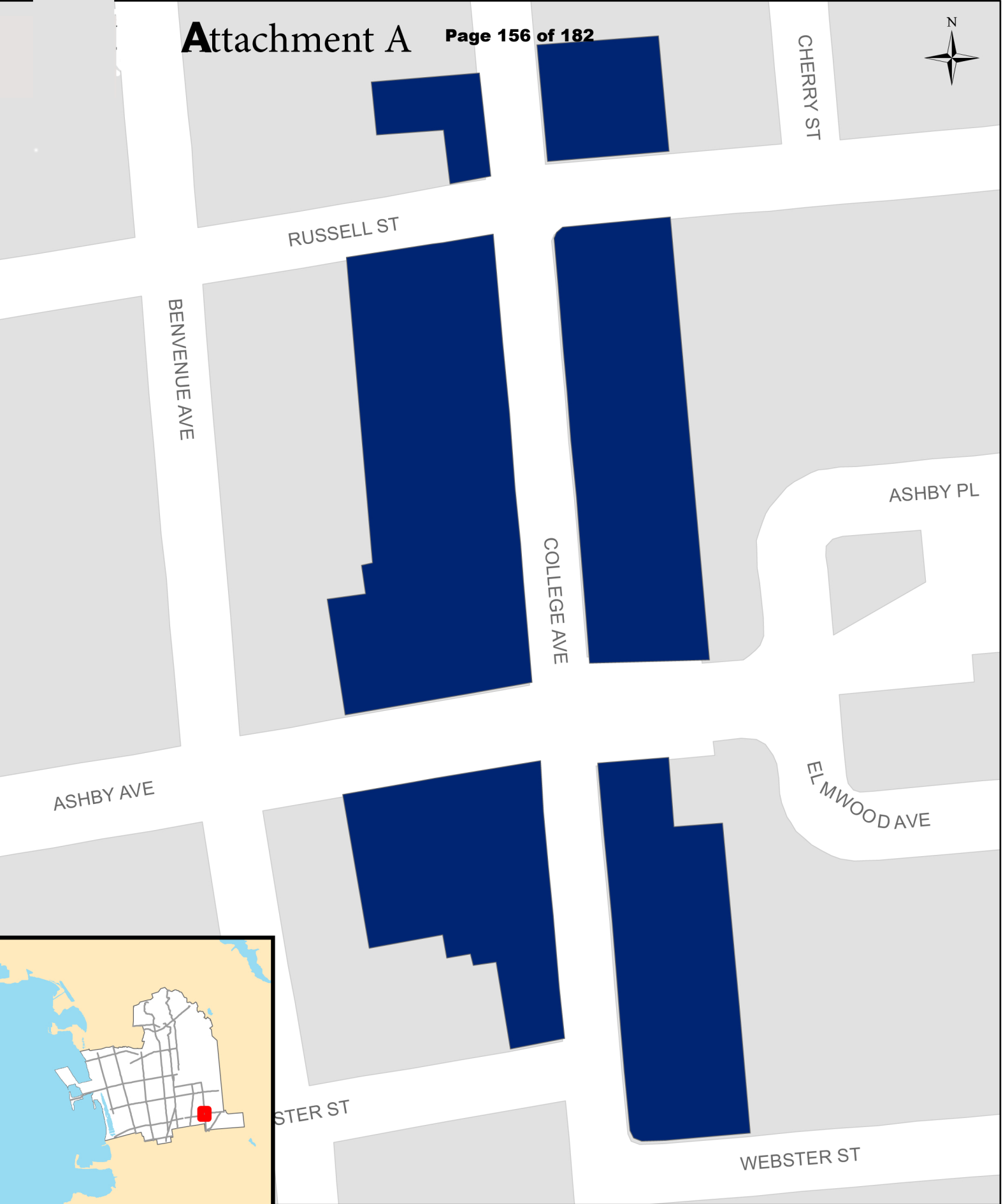
Block 1567: Parcels: 16, 17, 18, 19, 20, 21, 22, 23, 24, 62, 63, 64, 66, 67, 68, 87, 88, 89, 90, and 91.

Southern Boundary. Webster Street.

Northern Boundary. A line connecting the northern edge of parcel 053-1695-011 (2832 College) on the western side of College and the northern edge of parcel 053-1696-015 (2887 College) on the eastern side of College. (Ord. 7317-NS § 3 (part), 2013)

**EXHIBIT B-14**

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# ELMWOOD BUSINESS IMPROVEMENT DISTRICT

September 10, 2013



## FAIR CAMPAIGN PRACTICES COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income is required to file campaign reports under the Berkeley Election Reform Act of 1974, or acts as a consultant on campaign matters.

### EXHIBIT B-15

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## HOMELESS COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the commission shall disclose all interests in real property located in the City of Berkeley.

In addition, members of the commission shall disclose any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income:

- (1) ~~(1)~~ is engaged in serving the social welfare needs of the homeless in the City of Berkeley;
- (2) owns or manages real property in Berkeley; or
- (~~3~~) derives income from the sale of construction supply materials, or performs construction services or renovation services, including landscaping, architectural, and interior decorating.

### EXHIBIT B-16

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## HOMELESS SERVICES PANEL OF EXPERTS

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the commission shall disclose all interests in real property located in the City of Berkeley.

In addition, members of the commission shall disclose any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income:

- (1) is engaged in serving the housing or social welfare needs of the homeless in the City of Berkeley;
- (2) owns or manages real property in Berkeley; or
- (3) derives income from the sale of construction materials, or performs construction or renovation services, including landscaping, architectural, and interior decorating.

### EXHIBIT B-17

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## HOUSING ADVISORY COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

~~All members of the Board shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property located in the City of Berkeley; and all sources of income, including gifts, loans, and travel payments. All members of the Commission shall disclose all interests in real property located in the City of Berkeley.~~

~~In addition, members of the Commission shall disclose any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization or source of income:~~

- ~~(1) is engaged in serving the housing needs of low and moderate income people; or~~
- ~~(2) owns real property in Berkeley.~~

### EXHIBIT B-18

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## HUMAN WELFARE AND COMMUNITY ACTION COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose business entities and non-profit organizations in which they have an investment or are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization or source of income is of the type which receives funds under contract with the City of Berkeley to serve the social welfare needs of the people of Berkeley.

### EXHIBIT B-19

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## JOINT POWERS FINANCING AUTHORITY APPENDIX

### Designated Officials

Members of the Authority

### Disclosure Category

Members of the Authority shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property located in the City of Berkeley; and all sources of income, including gifts, loans, and travel payments.

### EXHIBIT B-20

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**JOINT SUBCOMMITTEE ON THE IMPLEMENTATION OF STATE HOUSING LAWS  
APPENDIX**

**Designated Officials**

Members of the Commission

**Disclosure Category**

All members of the Board shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property located in the City of Berkeley; and all sources of income, including gifts, loans, and travel payments.

**EXHIBIT B-21**

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## LANDMARKS PRESERVATION COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose any interest in real property located in the City of Berkeley consisting in whole or in part of a building more than 40 years old. In addition, members of the Commission shall disclose any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income has an interest in real property located in the City of Berkeley consisting in whole or in part of a building more than 40 years old.

### EXHIBIT B-22

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## LOAN ADMINISTRATION BOARD APPENDIX

### Designated Officials

Members of the Board

### Disclosure Category

All members of the Board shall disclose all business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property [located in the City of Berkeley](#); and all sources of income, including gifts, loans, and travel payments.

### EXHIBIT B-23

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## MEASURE O BOND OVERSIGHT COMMITTEE

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Board shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property located in the City of Berkeley; and all sources of income, including gifts, loans, and travel payments.

### EXHIBIT B-24

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## MENTAL HEALTH COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose business entities and non-profit organizations in which they have an investment or are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income is of the type which has received mental health funds administered by the City of Berkeley.

In addition, members of the Commission shall disclose any interest in real property located within 1/4 mile of any clinical mental health site operated by the City of Berkeley or supported in whole or in part by funds administered by the City of Berkeley.

### EXHIBIT B-25

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OVERSIGHT BOARD APPENDIX

**Designated Employees**

**Disclosure Categories**

Members of the Board

1

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property [located in the City of Berkeley](#); and all sources of income, including gifts, loans and travel payments.

## PARKS AND WATERFRONT COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All Members of the Commission shall disclose:

- (a) all interest in real property within  $\frac{1}{4}$  mile of any Berkeley park, mini-park or municipal recreation facility or within  $\frac{1}{4}$  mile of any open space suitable for development into a park or mini-park; and
- (b) ~~all~~ any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income is engaged in park design, construction, maintenance or renovation or in the manufacture, distribution or repair of park, recreation or playground equipment; and
- (c) all interests in real property located on or within  $\frac{1}{4}$  mile of the Berkeley Waterfront, including any leasehold interest in berths at the Berkeley Marina; and
- (d) ~~all~~ any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization or source of income:
  - i. is located on the Berkeley Waterfront;
  - ii. has an interest in real property on the Waterfront; or
  - iii. does business, has done business within the previous two years, or plans to do business on the Berkeley Waterfront, including but not limited to architects, engineers, real estate developers, building contractors, lawyers and others involved in projects or proposals on the Berkeley Waterfront.

### EXHIBIT B-27

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## PEACE AND JUSTICE COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose business entities, non-profit organizations, and financial institutions in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income:

- (1) has applied for, is receiving or within the previous two years has received funds through the City of Berkeley to serve the goal of creating a world community in which the relations between people are based on equality and respect for human rights, or the abhorrence of exploitation and oppression;
- (2) has profited from the manufacture, sale, development, or testing of any weapon, or any device, substance, chemical, or geological agent, which is designed or used principally as a means of individual or mass destruction;  
[or](#)
- (3) is from individuals who control or serve as directors of financial institutions.

### EXHIBIT B-28

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## PERSONNEL BOARD APPENDIX

### Designated Officials

Members of the Board

### Disclosure Category

All members of the Board shall disclose business entities or non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or the source of income is:

- (1) a union or other organization which represents or has sought to represent employees in collective bargaining; or
- (2) a health plan, an insurance company, or a financial institution offering services of the type made available as fringe benefits to unrepresented employees of the City of Berkeley.

### EXHIBIT B-29

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## PLANNING COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property [located in the City of Berkeley](#); and all sources of income, including gifts, loans, and travel payments.

### EXHIBIT B-30

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## PUBLIC WORKS COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all sources of income, including gifts, loans, and travel payments; and all interests in real property [located in the City of Berkeley](#).

### EXHIBIT B-32

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Public Works COM.docx

**SOLANO AVENUE BUSINESS IMPROVEMENT DISTRICT  
ADVISORY BOARD APPENDIX**

**Designated Officials**

Board Members

**Disclosure Category**

All members of the Board shall disclose all interests in real property located on or within one mile of the Solano Avenue Business Improvement District as defined in Attachment A to this Appendix, and any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income; if the business entity, non-profit organization, or source of income is:

- (a) located in or within one mile of the Solano Avenue Business Improvement District;
- (b) has an interest in real property located in or within one mile of the Solano Avenue Business Improvement District; [or](#)
- (c) does business, has done business within the previous two years, or plans to do business in or within one mile of the Solano Avenue Business Improvement District, including but not limited to architects, engineers, real estate developers, building contractors, lawyers and others involved in projects or proposals located in or within one mile of the Solano Avenue Business Improvement District.

**EXHIBIT B-33**

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ATTACHMENT A

SOLANO AVENUE BUSINESS IMPROVEMENT DISTRICT  
ADVISORY BOARD APPENDIX

Boundaries of the Solano Avenue Business Improvement District

**ZONE A**

Includes all businesses on real estate parcels with frontage on Solano Avenue or in the C-SO zone between The Alameda and the Berkeley/Albany line.

Northern Boundary:

A line connecting the northern edges of all parcels fronting on the northern side of Solano Avenue or in the C-SO zone from the Albany Town Line to The Alameda. The parcels along the northern boundary are as follows:

Assessor's Map 62:

Block 2848: Parcels 13 and 14

Block 2870: Parcels 16,17-2, 18,19 and 20

Block 2872: Parcels 17,18,19, 20, 21, 22, 23, 24, 25 and 26

Block 2871: Parcels 7-2, 10, 11, 12-1, 15-1, 16-1, 19, 20, 21 and 22

Assessor's Map 61:

Block 2602: Parcels 2, 3-1, 3-2, 4, 5, 5-1, 6, 8, 9, 33-1, 35-4, 37, 38, 40-1, 43-1,44-1, 45, 46, 47, 48, 49, 50 and 51

Eastern Boundary

The western edge of The Alameda

Southern Boundary

1. A line connecting the southern edges of all parcels fronting on the southern side of Solano Avenue or in the C-SO zone from The Alameda to the Albany Town Line. The parcels along the southern boundary are as follows:

Assessor's Map 61

Block 2603: Parcels 1,3-3 and 4

Block 2611: Parcels 1-2, 4, 25-3, 25-4 and 28-1

Block 2612: Parcels 1 and 2

Block 2613: Parcels 1-1, 5-1 and 6

Block 2614: Parcels 1, 2, 3, 4 and 22 through 28

2. The northern edge of Solano Avenue from Tulare Avenue to a point approximately 100 feet west of Neilson Street.

**EXHIBIT B-33**

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ATTACHMENT A

SOLANO AVENUE BUSINESS IMPROVEMENT DISTRICT  
ADVISORY BOARD APPENDIX

Western Boundary  
The Albany Town Line

**ZONE B**

Includes all businesses within the boundaries of the District on parcels not fronting on Solano Avenue between The Alameda and the Berkeley/Albany line or in the C-SO zone. The boundaries of the Zone B areas are as follows:

Area 1

A line around the three parcels immediately south of Zone A on the western edge of The Alameda. This area includes the following parcels:

**Assessor's Map 61**

Block 2603: Parcels 5, 6, and 7

Area 2

A line around the block enclosed by the eastern edge of The Alameda, the southern edge of Solano Avenue, the western edge of Contra Costa Avenue and the northern Edge of Los Angeles Avenue. This area includes the following parcels:

**Assessor's Map 61**

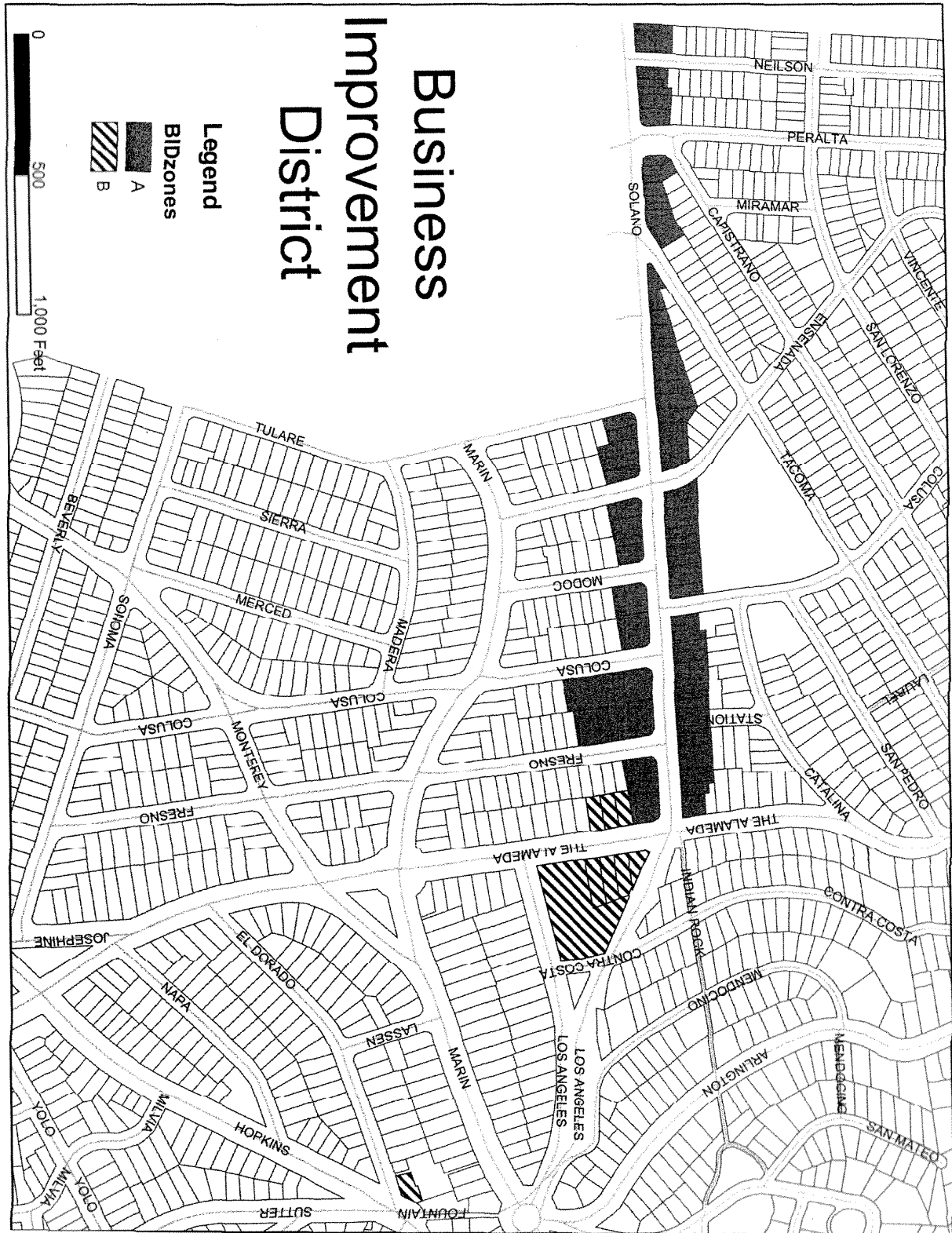
Block 2575: Parcels 40-1, 41, 42, 43 and 44

Area 3

A line around Parcel 3-7, Block 2571, Assessor's Map 61

**EXHIBIT B-33**

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**SUCCESSOR AGENCY APPENDIX**

| <b>Designated Officials and Employees</b> | <b>Disclosure Categories</b> |
|-------------------------------------------|------------------------------|
| Members of the Successor Agency           | 1                            |
| Staff of the Agency                       | 1                            |

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property [located in the City of Berkeley](#); and all sources of income, including gifts, loans and travel payments.

**SUPPLEMENTAL RETIREMENT AND INCOME PLAN  
“SRIP” COMMITTEE APPENDIX**

**Designated Employees**

Supplemental Retirement and Income Plan “SRIP” Committee Members and Alternates

**Disclosure Category**

All Supplemental Retirement and Income Plan “SRIP” Committee members shall disclose business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property [located in the City of Berkeley](#); and all sources of income, including gifts, loans, and travel payments.

**EXHIBIT B-36**

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## TRANSPORTATION COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

All members of the Commission shall disclose:

- (a) all interests in real property [located in the City of Berkeley](#);
- (b) all business entities or non-profit organizations, in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and
- (c) all income, including gifts, loans, and travel payments; from (a) or (b) above, or from an individual who has an interest in real property [located in the City of Berkeley](#) or who owns or operates a business entity or non-profit organization.

### EXHIBIT B-37

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## ZERO WASTE COMMISSION APPENDIX

### Designated Officials

Members of the Commission

### Disclosure Category

Members of the Commission shall disclose any business entity or non-profit organization in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; and income, including gifts, loans, and travel payments; if the business entity, non-profit organization, or source of income is of the type which:

- (a) collects or hauls solid waste;
- (b) builds or operates any solid waste disposal facility, transfer or processing station or resource recovery facility;
- (c) engages in solid waste recycling activities; or
- (d) acts as a consultant to entities or organizations engaged in the above activities.

### EXHIBIT B-38

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## ZONING ADJUSTMENTS BOARD APPENDIX

### Designated Officials

Members of the Board

### Disclosure Categories

All members of the Board shall disclose all business entities and non-profit organizations in which they have an investment or in which they are a director, officer, partner, trustee, employee or hold any position of management; all interests in real property [located in the City of Berkeley](#); and all sources of income, including gifts, loans, and travel payments.

### EXHIBIT B-39

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Office of the City Manager

CONSENT CALENDAR  
October 29, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Jordan Klein, Manager, Office of Economic Development  
 Subject: Contract: Berkeley Convention and Visitor's Bureau, d.b.a. Visit Berkeley

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a sole source contract and any amendments with the Berkeley Convention and Visitors' Bureau, d.b.a. Visit Berkeley, not to exceed \$7,966,000 of Berkeley Tourism Business Improvement District (BTBID) funds to support tourism marketing and promotion for the period through June 30, 2027.

FISCAL IMPACTS OF RECOMMENDATION

The BTBID levies an annual assessment of one percent (1%) of gross short term room rental revenue for lodging establishments. The revenues are collected and the funds are expended from the Berkeley Tourism BID Fund. The budget code for the revenue is 781-21-208-251-0000-000-000-412110 and the budget code for the expenditures is 781-21-208-251-0000-000-446-636110. Based on the proposed budget revenue projections for the companion Transient Occupancy Tax for FYs 2020-2027, staff estimates that the Tourism BID assessment will raise an equivalent amount of approximately \$7,654,000 in FYs 2020-2027 (see Exhibit A). In addition, Visit Berkeley is owed \$56,958.17 for underpayment of the BTBID in FY14-19.

The contract will be with the Berkeley Convention and Visitors' Bureau, d.b.a. Visit Berkeley, and will be entered into the City's contract management database from budget code 781-21-208-251-0000-000-446-636110.

CURRENT SITUATION AND ITS EFFECTS

The term of the current Berkeley Tourism Business Improvement District (BTBID) was set on April 25, 2017 (Resolution No. 67,926-N.S), when the BTBID was renewed for the ten-year term beginning July 1, 2017 and ending June 30, 2027. Under the Property and Business Improvement District Law of 1994 (California Streets and Highways Code section 36600 et.seq.), the City Council may approve an Annual Report prepared by the Business Improvement District Owners' Association with a proposed budget for the next year. Accordingly, at its meeting on May 1, 2019, the BTBID Owners' Association voted

to recommend that the City Council approve the Annual Report for FY19 and budget for BTBID's Fiscal Year 2020. On May 28, 2019 Council adopted resolutions:

- A) approving the Berkeley Tourism Business Improvement District (BTBID) Annual Report of FY19 and preliminary FY20 budget, as recommended by the BTBID Owners' Association and,
- B) confirming the BTBID assessment and implementation contract with Visit Berkeley. This Council decision enabled continuous BTBID operations for another year.

Council approval is requested to authorize the City Manager to execute a sole source contract and any amendments with the Berkeley Convention and Visitors' Bureau, d.b.a. Visit Berkeley, for \$7,966,000 of BTBID funds, where the amount requested reflects:

- 1) actual tourism TOT revenue collected in FY2019 in excess of the amount already paid out to Visit Berkeley (the one-time "true-up" payment);
- 2) reconciliation for BTBID underpayment by the City of Berkeley in FYs14-19; and
- 3) BTBID funds to support tourism marketing and promotion for the years remaining in the period through which the BTBID was authorized by Council (ending June 30, 2027).

The total contract amount will not exceed the revenues collected through the Tourism Business Improvement District.

### BACKGROUND

The Berkeley Tourism BID was first established for a period of five years on September 18, 2012 to raise revenues to finance marketing and sales promotions, increase tourism, and promote Berkeley hotels as tourist, meeting, and event destinations. The Berkeley Municipal Code was amended on November 27, 2012 to modify its definition of room rent that so that BTBID assessments passed through to guests are exempt from the Transient Occupancy Tax (TOT) which is also applied to room rent. A portion of TOT revenue also funds the Berkeley Convention and Visitors Bureau, but under a separate contract. On April 25, 2017, Council approved Resolution No. 67,926-N.S. reestablishing the Tourism BID starting on July 1, 2017 for an additional 10 years, expiring in 2027. The Tourism BID is authorized through June 30, 2027 unless action is taken to disestablish it.

### ENVIRONMENTAL SUSTAINABILITY

The BTBID works to promote the Bay Area Green Business certification program with Berkeley's hotel owners, thereby encouraging the local lodging industry to take considerable action to meet environmental sustainability objectives.

### RATIONALE FOR RECOMMENDATION

Visit Berkeley was designated as the BTBID Owners' Association in the 2017 Management District Plan for the Tourism BID. As such, the California Streets and

Highways Code Section 36623 requires the City to contract with this designated non-profit corporation to provide these services.

ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered.

CONTACT PERSON

Elizabeth Redman Cleveland, Economic Development Project Coordinator, (510) 981-7532.

Jordan Klein, Economic Development Manager, (510) 981-7534.

Attachments:

1: Resolution: Contract: Berkeley Convention and Visitors' Bureau (DBA Visit Berkeley) to implement the Berkeley Tourism Business Improvement District

RESOLUTION NO. ##,###-N.S.

CONTRACT: BERKELEY CONVENTION AND VISITORS' BUREAU (DBA VISIT BERKELEY) TO IMPLEMENT THE BERKELEY TOURISM BUSINESS IMPROVEMENT DISTRICT

WHEREAS, Visit Berkeley (VB) has proven to be an effective partner with the City of Berkeley in implementing hotel and tourism marketing and promotions; and

WHEREAS, VB is the one private sector organization that is taking comprehensive action to improve the economic vitality of the hotel sector across Berkeley, as reflected in VB's long history of supporting the hotel and tourism sector; and

WHEREAS, on April 25, 2017, the City Council held a public hearing, after which it adopted Resolution No. 67,926 -N.S. establishing the Berkeley Tourism Business Improvement District (BTBID) starting July 1, 2017 and ending June 30, 2027 and levying an assessment to be collected on a monthly basis; and

WHEREAS, on May 1, 2019, the Owners' Association of the Berkeley Tourism Business Improvement District approved an annual report as required by California Streets and Highway Code 36650; and

WHEREAS, on May 28, 2019, the City Council approved the Annual Report prepared by the Owners' Association.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute a sole source contract and any amendments with Visit Berkeley in the amount of \$7,966,000 for the purpose of implementation of the BTBID for the period of July 1, 2019 to June 30, 2027. A record signature copy of said contract and any amendments are to be on file in the Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR  
October 29, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Henry Oyekanmi, Director, Finance  
 Subject: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on October 29, 2019

RECOMMENDATION

Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.

FISCAL IMPACTS OF RECOMMENDATION

Total estimated cost of items included in this report is \$160,000.

| <u>PROJECT</u>                                                 | <u>Fund</u>                    | <u>Source</u> | <u>Amount</u>    |
|----------------------------------------------------------------|--------------------------------|---------------|------------------|
| Crisis System Evaluation                                       | Will be added in the first AAO | n/a           | \$85,000         |
| Survey Registered Voters for Potential 2020 Ballot Initiatives | Will be added in the first AAO | n/a           | \$75,000         |
| <b>Total:</b>                                                  |                                |               | <b>\$160,000</b> |

CURRENT SITUATION AND ITS EFFECTS

On May, 6, 2008, Council adopted Ordinance No. 7,035-N.S. effective June 6, 2008, which increased the City Manager's purchasing authority for services to \$50,000. As a result, this required report submitted by the City Manager to Council is now for those purchases in excess of \$100,000 for goods; and \$200,000 for playgrounds and construction; and \$50,000 for services. If Council does not object to these items being sent out for bid or proposal within one week of them appearing on the agenda, and upon final notice to proceed from the requesting department, the IFB (Invitation for Bid)

Formal Bid Solicitations and Request for Proposals  
Scheduled for Possible Issuance After Council  
Approval on October 29, 2019

CONSENT CALENDAR  
October 29, 2019

or RFP (Request for Proposal) may be released to the public and notices sent to the potential bidder/respondent list.

BACKGROUND

On May 6, 2008, Council adopted Ordinance No. 7,035-N.S., amending the City Manager's purchasing authority for services.

ENVIRONMENTAL SUSTAINABILITY

The Finance Department reviews all formal bid and proposal solicitations to ensure that they include provisions for compliance with the City's environmental policies. For each contract that is subject to City Council authorization, staff will address environmental sustainability considerations in the associated staff report to City Council.

RATIONALE FOR RECOMMENDATION

Need for the services.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Dennis Dang, Acting General Services Manager, Finance, 510-981-7329

Attachments:

- 1: Formal Bid Solicitations and Request for Proposals Scheduled For Possible Issuance After Council Approval on October 29, 2019
  - a) Crisis System Evaluation
  - b) Survey Registered Voters for 2020 Ballot Measures

Note: Original of this attachment with live signature of authorizing personnel is on file in General Services.



DATE SUBMITTED: October 29, 2019

| SPECIFICATION NO.  | DESCRIPTION OF GOODS / SERVICES BEING PURCHASED                | APPROX. RELEASE DATE | APPROX. BID OPENING DATE | INTENDED USE                                                                                                                                                                                                                                                                                                                                                         | ESTIMATED COST   | BUDGET CODE TO BE CHARGED                  | DEPT. / DIVISION      | CONTACT NAME & PHONE                                               |
|--------------------|----------------------------------------------------------------|----------------------|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|--------------------------------------------|-----------------------|--------------------------------------------------------------------|
| 20-11357-C         | Crisis System Evaluation                                       | 12/11/2019           | 1/9/2020                 | Evaluation of current mental health crisis system in City of Berkeley; Conducting stakeholder process for getting input into possible revisions to the mental health crisis system; Environmental scan of models for mental health crisis systems that have limited law enforcement model; and Recommendation for improving mental health crisis system in Berkeley. | \$85,000         | HHMCA2001-NONPERSONN-CONTRSERVI-MISCPROFSV | HHCS/Mental Health    | Conor Murphy<br>981-7611<br><br>Steven Grolnic-McClurg<br>981-5249 |
| 20-11359-C         | Survey Registered Voters for Potential 2020 Ballot Initiatives | 11/15/2019           | 12/19/2019               | Survey registered voters to determine public opinion about revenue and other measures that may be considered for the November 2020 ballot.                                                                                                                                                                                                                           | \$75,000         | 011-21-201-000-0000-000-412-612990-        | City Manager's Office | Dave White<br>981-7000                                             |
| <b>DEPT. TOTAL</b> |                                                                |                      |                          |                                                                                                                                                                                                                                                                                                                                                                      | <b>\$160,000</b> |                                            |                       |                                                                    |
| <b>GRAND TOTAL</b> |                                                                |                      |                          |                                                                                                                                                                                                                                                                                                                                                                      | <b>\$160,000</b> |                                            |                       |                                                                    |





Office of the City Manager

CONSENT CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Dee-Williams Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance

Subject: Recommendation and Contract: Management Partners for Management Consultancy Services

RECOMMENDATION

Adopt a Resolution accepting the recommendation of the City Council Agenda & Rules Committee authorizing the City Manager or her designee to execute a contract and any amendments or extensions with Management Partners in an amount not to exceed \$45,500 for the period from November 12, 2019 through July 31, 2021 to provide management consultancy services to the City Council of the City of Berkeley to conduct a performance evaluation of the City Manager.

POLICY COMMITTEE RECOMMENDATION

On October 1, 2019, the Agenda & Rules Committee adopted the following action: M/S/C (Wengraf/Arreguin) to recommend to the City Council that Management Partners be selected to perform the City Manager Evaluation with the request that Management Partners assign a consultant that has not previously worked with the City. Vote: All Ayes.

FINANCIAL IMPLICATIONS

Funding for this contract is provided in the approved fiscal year 2020 budget and will be included in the fiscal year 2021 budget as part of the Annual Appropriations Ordinance. Each fiscal year contract amount is estimated at \$22,750 and to be budgeted to account code 011-21-201-000-0000-000-412-612990.

CURRENT SITUATION AND ITS EFFECTS

On May 14, 2019, the City Council unanimously voted to have the City Manager issue a Request for Proposal (RFP) to contract with an experienced management consulting firm to assist and inform the City Council and City Manager in an evaluation assessment of the City Manager's performance. The Council also directed that the corresponding RFP be reviewed by the City Council Agenda and Rules Committee ("Council Committee") prior to issuance; and that responses received be reviewed by the Council Committee (Councilmembers: Arreguin, Harrison, and Wengraf) and that the members of the Council Committee are directed to make a recommendation for consultant selection to the entire City Council for approval.

The Council Committee met on July 8, 2019 and approved for the City Manager to publicly solicit RFP Specification No. 20-11354-C release dated Wednesday, August 14, 2019; and of which closed on Thursday, September 12, 2019 with two responses received.

Prior to initiating RFP Specification No. 20-11354-C the last facilitated evaluation process of the (prior) City Manager was conducted in October of 2013. This process included an Ad Hoc Committee of the City Council and was facilitated by an experienced firm.

BACKGROUND

RFP Specification No. 20-11354-C was issued on August 14, 2019 seeking qualified firms or individuals to assist and inform the City Council and City Manager in an evaluation assessment of the City Manager's performance. On Thursday, September 12, 2019, the RFP closed with two proposals being received and responses subsequently evaluated by the Council Committee to select the proposal best meeting the criteria and scope of services stated in the RFP. On October 1, 2019, the Council Committee recommended Management Partners to the City Council.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

RFP submittals were competitively reviewed and scored by the three member Council Committee. On October 1, 2019, the subcommittee selected for recommendation to the full City Council the proposal determined to best demonstrate breadth and extent of professional experience and resources, as well as, meet the scope of services as stated in the RFP.

ALTERNATIVE ACTIONS

None. The City Council is committed to conducting an evaluation process of the City Manager.

CONTACT PERSON

Dennis Dang, Acting General Services Manager, (510) 981-7329

Attachments:  
1: Resolution

RESOLUTION NO. ##,##-N.S.

CONTRACT AGREEMENT: MANAGEMENT PARTNERS FOR MANAGEMENT  
CONSULTANCY SERVICES

WHEREAS, the City Council of the City of Berkeley is committed to conducting an evaluation process of the City Manager; and

WHEREAS, the last facilitated evaluation process of the (prior) City Manager was conducted in October of 2013; and

WHEREAS, on May 14, 2019, the City Council unanimously voted to have the City Manager issue a Request for Proposal (RFP) to contract with an experienced management consulting firm to assist and inform the City Council and City Manager in an evaluation assessment of the City Manager's performance; and

WHEREAS, the City Council Agenda and Rules Committee met on July 8, 2019 and approved for the City Manager to publicly solicit RFP Specification No. 20-11354-C release dated Wednesday, August 14, 2019; and

WHEREAS, RFP Specification No. 20-11354-C closed on Thursday, September 12, 2019 and two qualified proposals were received; and

WHEREAS, the three member City Council Agenda and Rules Committee, a subcommittee of the City Council, evaluated the proposals and on October 1, 2019, selected the proposal that best demonstrated breadth and extent of professional experience and resources, as well as, met the scope of services as stated in the RFP; and

WHEREAS, funding is approved in the fiscal year 2020 budget and will be included in the fiscal year 2021 budget as part of the Annual Appropriations Ordinance to accounting budget code 011-21-201-000-0000-000-412-612990.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it accepts the recommendation of the City Council Agenda and Rules Committee to authorize the City Manager or her designee to execute a contract and any amendments or extensions with Management Partners in an amount not to exceed \$45,500 for the period from November 12, 2019 through July 31, 2021, to provide management consultancy services to the Council to conduct a performance evaluation of the City Manager, subject to the City's annual budget appropriation process.





Department of Finance

CONSENT CALENDAR  
October 29, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Henry Oyekanmi, Director, Finance Department  
 Subject: Contract No. 103580-1 (9821) Amendment: First Alarm Security & Patrol, Inc., dba First Security Services for Citywide Security Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to increase the not-to-exceed value of Contract No. 103580-1 (9821) by \$300,000, from \$2,784,798 to \$3,084,798 to fund continued services through the contract expiration date of February 29, 2020. The \$300,000 additional spending authority provides the City with the necessary funding to finalize the on-going RFP #19-11316-C (Re-issued) for Citywide Unarmed Security Guard Services.

FISCAL IMPACTS OF RECOMMENDATION

On November 18, 2014 Council authorized the City Manager to execute a 2.5-year term citywide contract #9821 and any amendments with First Alarm Security & Patrol, Inc., dba First Security Services (First Security) to provide security guard services at various City locations and facilities. The initial contract valued at \$1,297,110 included an option to extend the duration period, of which the parties mutually agreed to execute two extensions through to June 30, 2019 with a value of \$2,334,798.

Subsequently, on June 20, 2019 the contract was extended by authority of the City Manager to October 31, 2019; and further extended to February 29, 2020 on October 1, 2019. These contract extensions accommodated the issuance and evaluation of RFP #19-11316-C (Re-issued) – Citywide Unarmed Security Guard Services, which is currently on going.

The security services contract is in use at various City locations, including:

- 1947 Center Street
- 2180 Milvia Street
- Berkeley Harbor Marina
- Corporation Yard
- Zero Waste Management Center
- HHCS Mental Health Facilities

The funds for the contract are available in each individual department's budget on an annual basis. The contract's amendments have been entered into the City's contract management database and assigned ERMA Contract No. 103580-1.

The security services contract is utilized on an as-needed basis to provide services at locations serving the homeless. The Berkeley Public Library receives services from First Security under a separate contract.

#### CURRENT SITUATION AND ITS EFFECTS

Request for Proposal (RFP) #14-10839-C was released in March 2014 containing scopes of work with the intent of entering into two (2) separate contracts – one for City locations, and one for the Berkeley Public Library (BPL). Neither the City, nor the BPL, have available trained staff to provide security guard services. Services provided under the City's contract are managed by the recipient departments, namely Public Works/Facilities; Health, Housing and Community Services; and Parks, Recreation & Waterfront/Berkeley Marina. Resolution No. 66-839-N.S. authorized the City Manager to execute Contract No. 9821 (converted to ERMA Contract No. 103580-1) with First Security for an initial 2.5-year period with a provision to extend by written notice from the City Manager or his/her designee.

The existing contract is set to expire on February 29, 2020 and was last extended to allow for the issuance and evaluation of RFP #19-11316-C (Re-issued) – Citywide Unarmed Security Guard Services, of which six responses were received. To accommodate the contract's most recent time extension, before a new contract is effected, additional spending authority in the amount of \$300,000 is needed to cover anticipated expenditures.

#### BACKGROUND

The City has contracted with various security service companies over several years. The City does not have available trained staff needed to perform security guard services at its various facilities including City Hall, 1947 Center Street, the mental health clinics, as well as at the Berkeley Marina. Having a single agreement for the entire City ensures greater efficiency to procure and manage guard services; and garners cost savings, especially in regards to smaller or outer lying facilities and ad-hoc service requests where users benefit from a fixed hourly rate negotiated by leveraging the City's entire demand for security services.

#### ENVIRONMENTAL SUSTAINABILITY

First Security uses advanced, web-based, GIS-enable technology to conduct business thereby reducing the reliance on printing paper reports. Additionally, the company provides a web-based platform that provides dashboard and detail level access service information to authorized City staff.



Contract No. 103580-1 (9821) Amendment:  
First Alarm Security & Patrol, Inc.

CONSENT CALENDAR  
October 29, 2019

RATIONALE FOR RECOMMENDATION

An increase in the not-to-exceed amount of the contract is required to fund continuing service delivery prior to implementing a new multi-year contract scheduled to start on March 1, 2020.

ALTERNATIVE ACTIONS CONSIDERED

None. The City does not have trained staff to perform security services at the various locations that require such coverage; therefore funding service under the existing contract is required.

CONTACT PERSON

Dennis Dang, Acting General Services Manager, Finance Department, 981-7329

Attachments:

1: Resolution

RESOLUTION NO. ##,###-N.S.

CONTRACT NO. 103580-1 (9821) AMENDMENT: FIRST ALARM SECURITY & PATROL, INC., DBA FIRST SECURITY SERVICES FOR CITYWIDE SECURITY SERVICES

WHEREAS, on November 18, 2014 Council adopted Resolution #66-839-N.S. and authorized the City Manager to execute a contract and any amendments with First Security; and

WHEREAS, the contract is set to expire on February 29, 2020 and was extended to allow for the issuance and evaluation of RFP #19-11316-C (Re-issued) – Citywide Unarmed Security Guard Services, of which six responses were received; and

WHEREAS, to accommodate the contract's extension and before a new contract is effected, additional spending authority in the amount of \$300,000 is needed to cover anticipated expenditures.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend Contract No. 103580-1 with First Alarm Security & Patrol, Inc., dba First Security Services for citywide security services to increase the not-to-exceed value of the contract from \$2,784,798 to \$3,084,798 to cover anticipated expenditures through February 29, 2020.



Office of the City Manager

CONSENT CALENDAR  
October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Timothy Burroughs, Director, Planning and Development Department

Subject: Contract No. 10874B Amendment: Street Level Advisors for Zoning and Development Fee Feasibility Analyses

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 10874B with Street Level Advisors, to analyze the impact of fees and other variables on development project feasibility, increasing the contract amount by \$150,000 to a new total not-to-exceed contract amount of \$225,400 and extending the contract period to December 31, 2022.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available for the proposed contract increase from the Permit Service Center Fund, under the budget code 621-53-584-622-0000-000-472-612990.

CURRENT SITUATION AND ITS EFFECTS

The Planning Department has been asked to expedite work in two key areas, each with fixed time frames for City responses: Zoning and development feasibility in BART station areas, and possible revisions to City impact fees associated with housing development. The City is also concluding work on the Adeline Corridor Specific Plan and is in the process of responding to comments and requests for additional information. In each area, the City will require the expertise of an economist specializing in housing and development issues.

Assembly Bill 2923 directed BART to adopt zoning standards by July 1, 2020 for housing development on its properties—in Berkeley, the North Berkeley station area and the Ashby station area. The City will then have until July 1, 2022 to adopt its own zoning which conforms to the AB 2923 guidelines. More imminently, Berkeley may wish to adopt its conforming zoning in an expedited time frame in order to have the two stations considered for BART's upcoming 10-year work plan. Inclusion in BART's 10-year work plan ensures that BART's staff and other resources will be focused on the significant work needed to prepare sites like these for development.

Berkeley has placed a high priority on development of housing generally, and affordable housing specifically, in order to fill some of the City's unmet housing needs. The North

Berkeley and Ashby station areas represent some of the best opportunities the City will have to add significant numbers of new units at a range of affordability levels. In order to do so, zoning must be developed which hits the “sweet spot” of accruing the greatest benefits to the City, both on-site and through mitigation fees for affordable housing construction elsewhere, while remaining compatible with the existing neighborhood character and soliciting maximum input from all stakeholders, including current local residents and those displaced from the areas previously. Work performed by Street Level Advisors under its existing contract limits for the Adeline Corridor Area Plan project has already helped to create a range of desired development intensities, densities and levels of affordable housing.

As the City moves forward to develop AB2923-compliant zoning for the BART station areas, it will need the services of a firm which can analyze development feasibility under various zoning scenarios, while incorporating variables such as amount/levels of affordable housing, open space, station and right-of-way improvements and other desired features.

The second area of immediate work being sought regards consideration of revisions to Berkeley’s mitigation and impact fees which support affordable housing development. There are currently six open City Council referrals on the Planning Commission’s work plan which fall into the category of Nexus Studies and Fee Revisions, pertaining to inclusionary housing, the formula for the Affordable Housing Mitigation Fee (per unit versus by floor area, and ways to promote on-site units over payment of the AHMF), fees to be imposed when demolishing affordable housing, and implications for live/work spaces and tenancy-in-common conversions. In all of these potential changes, the City strives to reach policies which promote and develop the greatest number of affordable housing units without making future housing development economically infeasible. Street Level Advisors has the expertise to perform these analyses.

Work under this contract will help to advance the City’s Strategic Plan goals of creating affordable housing and being a global leader in addressing climate change.

#### BACKGROUND

Street Level Advisors was selected through a competitive RFP process (Spec. #18-11172) to conduct a Development Fee Feasibility Analysis for the City of Berkeley, and is currently under contract with a not-to-exceed amount of \$75,400 for such services. The current contract expires on December 31, 2019.

#### ENVIRONMENTAL SUSTAINABILITY

Development of infill and transit-adjacent housing is one of the most effective steps municipalities can take to help reduce greenhouse gas emissions.

RATIONALE FOR RECOMMENDATION

The City is highly satisfied with the work delivered by Street Level Advisors to date under its existing contract. The proposed amendment will provide the consultant with additional capacity to analyze zoning and housing development variables to deliver a range of options to best inform Planning Commission and City Council policy considerations.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Timothy Burroughs, Director, Planning and Development Department, 510-981-7437  
Steven Buckley, Manager, Land Use Division, 510-981-7411

Attachments:

1: Resolution

RESOLUTION NO. ##,###-N.S.

CONTRACT NO. 10874B AMENDMENT: STREET LEVEL ADVISORS FOR ZONING  
AND DEVELOPMENT FEE FEASIBILITY ANALYSES

WHEREAS, the Planning Department issued a Request for Proposals (Spec. #18-11172) on September 25, 2017, seeking a vendor to conduct a Development Fee Feasibility Analysis; and

WHEREAS, based on written proposals received and staff panel interviews, Street Level Advisors was selected as the best qualified and most responsive firm to perform the work; and

WHEREAS, a contract was entered into on April 23, 2018 (Contract No. 10874) in the amount of \$40,000 for Street Level Advisors to provide these services; and

WHEREAS, a contract amendment was entered into on July 9, 2018 (Contract No. 10874A) to add an additional \$5,400 for the services, bringing the new contract total not-to-exceed amount to \$45,400; and

WHEREAS, a second contract amendment was entered into on May 23, 2019 (Contract No. 10874B) to add an additional \$30,000 for the services, bringing the new contract total not-to-exceed amount to \$75,400, as authorized by City Council Resolution No. 68,712-N.S.; and

WHEREAS, the work by Street Level Advisors on the Development Fee Feasibility Analysis to date has been highly satisfactory; and

WHEREAS, time-urgent work remains to assess the feasibility of development under different BART station area zoning scenarios, and under a variety of possible policy changes pertaining to mitigation and development fees, which require the continuing services of a qualified housing economics firm; and

WHEREAS, the cost of the contracted service is allocated in FY 2019 in budget code 833-8502-463.30-38;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 10874B with Street Level Advisors to continue its Development Fee Feasibility Analysis for an additional amount of \$150,000, to a new total contact not-to-exceed amount of \$225,400, for the period extending through December 31, 2022.

BE IT FURTHER RESOLVED that a record signature copy of said contract and any amendments will be on file in the Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Andrew R. Greenwood, Chief of Police  
 Subject: Contract No. 10742 Amendment: Redwood Toxicology Services for Drug and Alcohol Testing

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 10742 and any necessary future amendments with Redwood Toxicology Services for drug and alcohol testing for the Police Department, increasing the amount by \$200,000 for a total not to exceed amount of \$250,000 subject to the City's annual budget appropriation process.

FISCAL IMPACTS OF RECOMMENDATION

Approval of the recommendation would increase the contract amount, currently at \$50,000, to \$250,000. Funding for this expense is allocated via General Fund budget code 011-71-705-820-0000-000-421-612990.

CURRENT SITUATION AND ITS EFFECTS

The Police Department's use of Redwood Toxicology Lab's service in furtherance of Driving Under the Influence investigations has resulted in costs above the contract's authorized \$50,000 expenditure amount. The funding for this contract is nearly depleted. The need for services varies annually but usage has increased since the contract began on September 1, 2017.

BACKGROUND

Redwood Toxicology Services provides drug and alcohol analyses such as forensic alcohol and drug tests, as well as case analyses, consultation and testimony services.

This contract satisfies the requirement for the Police Department to properly collect, preserve and document the evidence as required by state law and the courts.

ENVIRONMENTAL SUSTAINABILITY

Redwood Toxicology is in compliance with State mandates requiring that alcohol and drug testing samples and supplies are handled and disposed of in an environmentally appropriate manner.

CONTACT PERSON

Andrew R. Greenwood, Chief of Police, (510) 981-5900

Attachment:

1: Resolution



RESOLUTION NO. ##,###-N.S.

CONTRACT NO. 10742 AMENDMENT: REDWOOD TOXICOLOGY SERVICES FOR  
FORENSIC ANALYSIS SERVICES

WHEREAS, the Berkeley Police Department is responsible for emergency response and investigations involving safety and drug-related crimes within the City of Berkeley; and

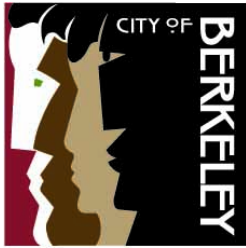
WHEREAS, the Berkeley Police Department is required to obtain forensic alcohol, alcohol plus drugs, and related tests for Driving Under the Influence investigations as required by state law and the courts; and

WHEREAS, the Redwood Toxicology Services maintains trained and experienced forensic toxicology scientists and technicians to perform forensic toxicology services, and furnish all supplies to the Berkeley Police Department; and

WHEREAS, funds are available in the current Police Department's General Fund budget code 011-71-705-820-0000-000-421-612990 for these services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend Contract No. 10742 and any future amendments, with Redwood Toxicology Services for forensic toxicology services to the Berkeley Police Department increasing the contract by \$200,000 for a total amount not to exceed \$250,000 subject to the City's annual budget appropriation process.





Children, Youth, and  
Recreation Commission

CONSENT CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Elizabeth Echols, Chairperson, Children, Youth & Recreation Commission

Submitted by: Stephanie Chu, Secretary, Children, Youth & Recreation Commission

Subject: Approval of One Additional Meeting for Children, Youth, and Recreation Commission in Calendar Year 2019

RECOMMENDATION

Adopt a resolution approving one additional meeting for the Children, Youth, and Recreation Commission in calendar year 2019.

FISCAL IMPACTS OF RECOMMENDATION

Minimal staff time and resources.

CURRENT SITUATION AND ITS EFFECTS

In January, February and March of 2019, the Children, Youth, and Recreation Commission held three special meetings in order to review proposals and prepare recommendations to Council regarding the FY 20-21 funding allocations for community agencies that provide youth services.

As the Commission may only have ten meetings per year, per Council Resolution No. 68,705-N.S., Council approval is requested to allow the Commission to continue its regular meeting schedule for the remainder of the year.

At a regular meeting on Monday, September 16, 2019, the Children, Youth & Recreation Commission approved a motion to send a request for approval to City Council for one additional meeting CYRC meeting this calendar year. (M/S/C: Batista/Echols/U); Ayes: Batista, Brookshire, Freeman, Echols, Richards, Taylor; Noes: None; Absent: None; Leave of Absence: Capitelli.

BACKGROUND

On December 11, 2018, the City Council adopted Resolution No. 68,705-N.S. that established a Commission Meeting Frequency Schedule for 2019. The Resolution established that the Children, Youth, & Recreation Commission may have a maximum of ten meetings per year. Any additional meetings require Council approval.

CITY MANAGER

The City Manager concurs with the request.

CONTACT PERSON

Elizabeth Echols, Chairperson, Children, Youth & Recreation Commission, 848-4861

Steph Chu, Secretary, Children, Youth & Recreation Commission, 981-5146

Attachment:

1: Resolution

RESOLUTION ##.### N.S.

APPROVING ONE ADDITIONAL MEETING IN CALENDAR YEAR 2019 FOR THE CHILDREN, YOUTH AND RECREATION COMMISSION

WHEREAS, on December 11, 2018, Berkeley City Council adopted Resolution No. 68,705-N.S. that established a Commission Meeting Frequency Schedule for 2019, the Children, Youth, and Recreation Commission was allocated ten meetings per calendar year; and

WHEREAS, any additional meetings require Council approval.

WHEREAS, at a regular meeting on Monday, September 16, 2019, the Children, Youth & Recreation Commission approved a motion to send a request for approval to City Council for one additional meeting CYRC meeting this calendar year. M/S/C: Batista/Echols/U; Ayes: Batista, Brookshire, Freeman, Echols, Richards, Taylor; Noes: None; Absent: None; Leave of Absence: Capitelli.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that one additional meeting is approved in calendar year 2019 for the Children, Youth, and Recreation Commission.





**To:** Honorable Mayor and Members of the City Council

**From:** Jenny Wong, City Auditor *JW*

**Subject:** Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees

#### RECOMMENDATION

We recommend City Council request that the City Manager report back by April 28, 2020, and every six months thereafter, regarding the status of our audit recommendations until reported fully implemented by the Human Resources Department. They have agreed to our findings and five of our recommendations. Please see our report for their complete response.

#### FISCAL IMPACTS OF RECOMMENDATION

We estimate that our first two recommendations will require 40 hours of staff time at an approximate cost of \$5,000, and that the third, and final, recommendation will require approximately 100-300 hours at a cost of about \$13,000 - \$38,000, respectively. The Human Resources Department may need funding to implement our recommendation to provide training to their staff and supervisors. The cost is dependent upon the type of training Human Resources chooses to implement.

It is not possible to assign a price to health and safety, but the cost of not implementing the recommendations could be higher due to potential lost productivity, physical harm to employees, and legal costs.

#### CURRENT SITUATION AND ITS EFFECTS

Berkeley's domestic violence leave policy does not completely reflect California state law. The policy does not address sexual assault, stalking, or witnesses' rights; state factors used in determining reasonable accommodations; or allow rare exceptions for employees to self-certify their leave or accommodation requests. The policy title is also focused on leave, which is misleading as to the scope that the state law covers.

Beyond state law, the policy does not address key workplace domestic violence issues, such as addressing work performance issues for employees experiencing domestic violence. Further, there are practices that Berkeley is not currently following, but could adopt, to be better positioned to implement a coordinated and supportive domestic violence response, including: training, outreach and education, collaboration, and commitment to an inclusive and trauma-informed response.

To reflect the full extent of state law, we recommend Human Resources revise the policy to address sexual assault, stalking, and witnesses' rights, and amend the policy title to reflect its comprehensive scope. We also recommend that Human Resources allow for employees to self-certify their leave and accommodation request when, in rare instances, it is not safe to obtain other documentation, and to clarify in the policy that employees are encouraged to come to Human Resources for assistance even if they do not initially have the documentation that may be requested.

To ensure Berkeley's policy addresses relevant domestic violence issues in the workplace, we recommend Human Resources revise its policy to incorporate the model policy and best practice elements described in our audit, and communicate the guidance to city staff. Additionally, to prepare Berkeley for implementing an inclusive domestic violence response policy, we recommend Human Resources provide training to supervisors and Human Resources staff responsible for implementing the policy, conduct outreach and education for all employees, facilitate collaboration, and adopt a trauma-informed and inclusive approach.

#### BACKGROUND

California law grants employees experiencing domestic violence, sexual assault, or stalking the right to take time off of work to safeguard their health and wellbeing, and to request accommodations to stay safe at work. The law extends to witnesses' of domestic violence who need to take leave in order to participate in court proceedings. Berkeley has a domestic violence leave policy that focuses on leave time and accommodations for employees experiencing domestic violence.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with this report.

#### RATIONALE FOR RECOMMENDATION

In a national survey, 60 percent of respondents who experienced domestic violence reported losing their jobs as a consequence of the abuse. Studies estimate that domestic violence costs \$8.3 billion a year in health costs and lost productivity in the United States. A comprehensive and coordinated response for employees experiencing domestic violence can improve their wellbeing and help keep workplaces safer.

#### CONTACT PERSON

Jenny Wong, City Auditor, City Auditor's Office, 510-981-6750

Attachment:

- 1: Audit Report: Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees

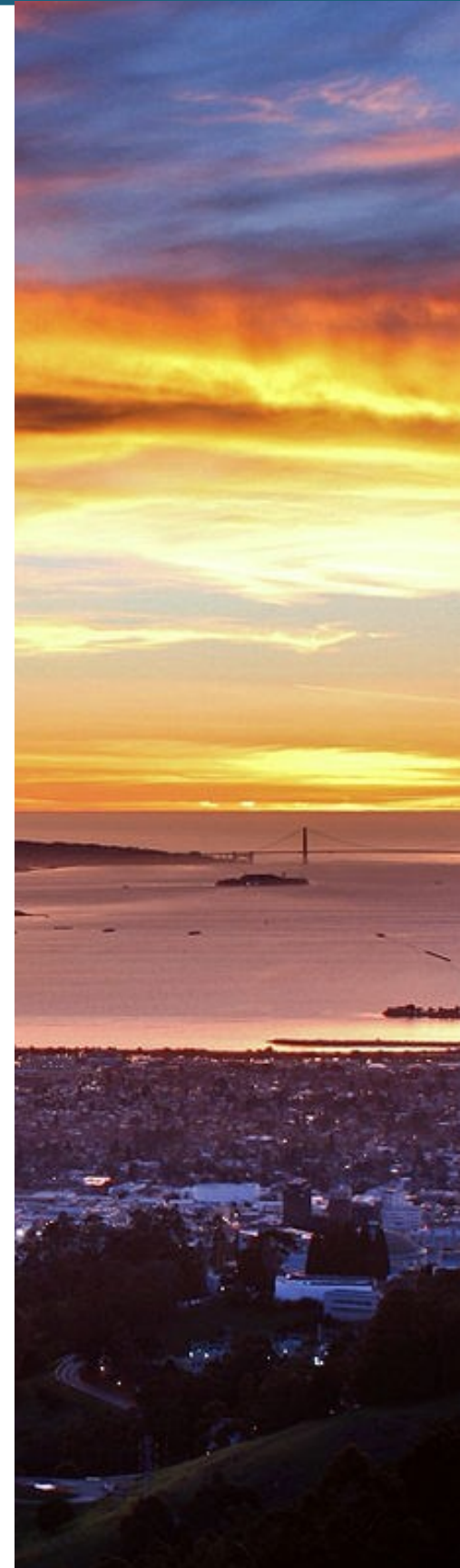


Audit Report  
October 10, 2019

# **Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees**



BERKELEY CITY AUDITOR



# Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees

## Report Highlights

October 10, 2019



### Findings

1. Berkeley's domestic violence leave policy does not include the state requirements of defining sexual assault and stalking or stating that the policy covers employees dealing with these experiences. We also found that Berkeley's policy does not provide Human Resources the flexibility to use its discretion to allow self-certification in rare instances.
2. Berkeley's policy does not include guidance on key domestic violence issues that affect employees or the workplace.
3. Berkeley can adopt practices to be better positioned to implement a robust, coordinated, and supportive domestic violence response, including: training, outreach and education, collaboration, and commitment to an inclusive and trauma-informed response.



### Recommendations

To reflect the full extent of state law, we recommend Human Resources revise the policy to define and include sexual assault, stalking, and witnesses' rights. We also recommend Human Resources clarify that requirements for employees to document their use of leave or request for accommodations are at the discretion of Human Resources, and that employees are encouraged to come to Human Resources for assistance even if they do not initially have the documentation that may be requested.

To ensure Berkeley's policy addresses key domestic violence issues in the workplace, we recommend Human Resources revise its policy to incorporate all the model policy and best practice elements described in the report, and communicate this guidance to city staff.

To prepare Berkeley for implementing an inclusive domestic violence response policy, we recommend Human Resources implement best practices, including providing supervisor training, conducting ongoing employee outreach, facilitating collaboration, and adopting a trauma-informed and inclusive approach.

### Objectives

To what extent does Berkeley's policy reflect state requirements?

Does Berkeley's policy address the key domestic violence issues in the workplace?

Is Berkeley prepared to implement a supportive domestic violence response policy?

### Why This Audit Is Important

Domestic violence can extend into the workplace to threaten employee safety and wellbeing. In a national survey, 60 percent of respondents who experienced domestic violence reported losing their jobs as a consequence of the abuse. Studies estimate that domestic violence costs \$8.3 billion a year in health costs and lost productivity.

A comprehensive response for employees experiencing domestic violence can improve their wellbeing and help employees stay safe. Berkeley is a step ahead of many other workplaces in having developed a stand-alone leave policy in January 2019 to help employees experiencing domestic violence get the support they need. However, we are concerned that supervisors are not trained to comply with the policy and employees do not know about the options for assistance available to them.



BERKELEY CITY AUDITOR

For the full report, visit:

<http://www.cityofberkeley.info/auditor>

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## Introduction

Domestic violence can occur anywhere, and its effects can extend into the workplace to threaten employee safety, health, and wellbeing. Nationally, one in four women and one in seven men have experienced severe violence by an intimate partner in their lifetime.<sup>1</sup> Domestic violence risk is higher for people of color and people who identify as LGBTQ+ or non-binary gender.<sup>2</sup> In a national survey, 60 percent of respondents who experienced domestic violence reported losing their jobs, and 96 percent reported their work performance suffered as a consequence of the abuse.<sup>3</sup> Alarming, 43 percent of women killed in U.S. workplaces were killed by a relative or domestic partner.<sup>4</sup> Studies estimate that domestic violence costs \$8.3 billion a year in health costs and lost productivity.<sup>5</sup> Responding to local concerns about these distressing statistics, City Council passed a resolution in 2018 co-authored by Berkeley's Peace and Justice Commission and Commission on the Status of Women resolving that freedom from domestic violence is a human right.

A comprehensive and coordinated response for employees experiencing domestic violence can improve their wellbeing and help employees stay safe, but most workplaces do not have a domestic violence response policy.<sup>6</sup> Berkeley is a step ahead of many other workplaces in having developed a stand-alone leave policy in January 2019 to help employees experiencing domestic violence get the support they need. However, we are concerned that supervisors are not trained to comply with the policy and employees do not know about the options for assistance available to them. We are also concerned that the current policy is limited. The intention for this audit is to outline a more comprehensive approach that Berkeley can adopt to be a leader in responding to domestic violence in the workplace and encouraging employees to seek the assistance available to them if needed.

## Scope, Objectives, and Methodology

This audit focused on the City of Berkeley's domestic violence leave policy. Our objectives were to determine:

- 1. To what extent does Berkeley's policy reflect state requirements?**
- 2. Does Berkeley's policy address the key domestic violence issues in the workplace?**
- 3. Is Berkeley prepared to implement a supportive domestic violence response policy?**

We examined Berkeley's current policy, reviewed relevant laws and regulations, interviewed subject-matter experts and Berkeley employees, and reviewed best practices. For more information, see Appendix I.

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<sup>1</sup> National Domestic Violence Hotline: <https://www.thehotline.org/resources/statistics/>

<sup>2</sup> Alameda County Department of Public Health: [http://www.acphd.org/media/506904/dv\\_2018\\_ac.pdf](http://www.acphd.org/media/506904/dv_2018_ac.pdf)

<sup>3</sup> Workplaces Respond to Domestic and Sexual Violence: A National Resource Center: <https://www.workplacesrespond.org/facts/>

<sup>4</sup> National Bureau of Labor Statistics, 2015 (most recent data available): <https://www.bls.gov/iif/oshwc/cfoi/workplace-homicides.htm>

<sup>5</sup> Workplaces Respond to Domestic and Sexual Violence: A National Resource Center: <https://www.workplacesrespond.org/facts/>

<sup>6</sup> National Domestic Violence Hotline: <https://www.thehotline.org/resources/statistics/>

## Background

Domestic violence is a pattern of coercive behavior, including acts or threats, used by one person to gain power and control over another person. Domestic violence occurs between current or former spouses, family members, intimate partners, or parents of children or stepchildren in common. Domestic violence affects people of all walks of life regardless of race, gender, sexual orientation, income, culture, nationality, and religion. The populations at highest risk include:

- Women ages 18-44;
- Women of color, particularly African American and Native populations;
- Pregnant and postpartum women;
- LGBTQ+ people;
- People with disabilities;
- Youth and adults who witnessed or experienced domestic violence as children;
- People who are low-income or in poverty; and
- Immigrants and refugees.

Though incidents of domestic violence often occur outside of work, domestic violence is a serious issue that can affect employees in the workplace. Domestic violence can result in physical harm, health issues, trauma, and emotional distress for employees. As a result, employees experiencing domestic violence may have excessive absences from work, problems with work performance, and other interference that can threaten their ability to do their job, advance in their job, or keep their job. Maintaining sufficient employment is important for those experiencing domestic violence. About three out of four people who experience domestic violence cited economic insecurity as the main reason they stayed in an abusive situation.<sup>7</sup>

**Table 1. Statistics on Domestic Violence in the Workplace**

|            |                                                                                                                                                |
|------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>43%</b> | of women killed in U.S. workplaces were killed by a relative or domestic partner. <sup>8</sup>                                                 |
| <b>96%</b> | of people who experienced domestic violence reported their work performance suffered as a consequence of the abuse. <sup>9</sup>               |
| <b>75%</b> | of people who experience domestic violence cited economic insecurity as the main reason they stayed with the person abusing them. <sup>9</sup> |
| <b>64%</b> | of employees who reported experiencing domestic violence felt their ability to work was affected by the violence. <sup>10</sup>                |

Sources: See footnotes.

<sup>7</sup> Workplaces Respond to Domestic and Sexual Violence: A National Resource Center: <https://www.workplacesrespond.org/facts/>

<sup>8</sup> National Bureau of Labor Statistics, 2015 (most recent data available): <https://www.bls.gov/iif/oshwc/cfoi/workplace-homicides.htm>

<sup>9</sup> Workplaces Respond to Domestic and Sexual Violence: A National Resource Center: <https://www.workplacesrespond.org/facts/>

<sup>10</sup> National Domestic Violence Hotline: <https://www.thehotline.org/resources/statistics/>

In 2012, U.S. President Barack Obama issued a presidential memorandum that required federal agencies to develop or modify policies for addressing the effects of domestic violence on the workforce. At the time, California already had laws in place granting employees experiencing domestic violence, sexual assault, or stalking the right to take time off of work to safeguard their health and wellbeing, and to request accommodations to stay safe at work. In 2013, California passed a bill prohibiting employers from discriminating or retaliating against employees for taking time off work or requesting accommodations related to domestic violence. In 2015, the City of Berkeley updated its policy that allowed employees to take extended leave for family care or health issues to include domestic violence issues, as required by state and federal law. Berkeley issued a stand-alone version of the policy in early 2019 that focused on leave time and accommodations for employees experiencing domestic violence.

Domestic violence is a complex issue for employers to address. Employers are not expected to be counselors or provide supportive services such as shelter, legal services, or counseling. But a secure workplace can be a safe haven for some and safety at work is an important part of an individuals' comprehensive safety plan. Employers can also be a resource to connect employees to supportive services in the community, such as the City's existing Employee Assistance Program.<sup>11</sup> On the other hand, employers could inadvertently worsen the situation if their response to employees experiencing domestic violence does not use best practices to demonstrate sensitivity to those experiencing domestic violence. Another challenge is that employers must also balance the concerns of individual employees with the need to maintain business operations.

**A note about language used in this report:**

**Domestic Violence:** Domestic violence can take many forms, both physical and non-physical. It includes, but is not limited to: physical violence, injury, or intimidation; sexual violence or abuse; emotional and/or psychological intimidation; verbal abuse; threats; harassment; stalking; or economic abuse and control. This report uses the term domestic violence to include all of these forms of abuse.

**Person/Employee, Survivor, and Victim:** People are not defined by their experience. To acknowledge employees' personhood and personal right to choose how they would like to identify, we use the term "person/employee experiencing domestic violence" rather than "survivor" or "victim." We also use "person using violence or abuse" rather than "perpetrator" or "abuser."

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<sup>11</sup> Berkeley contracts with Claremont Behavioral Services Employee Assistance Program, which provides city employees referrals to counseling and other supportive services, including domestic violence counseling and community resources.

## Berkeley's Domestic Violence Leave Policy Does Not Completely Reflect State Requirements

Berkeley's domestic violence leave policy (Administrative Regulation 2.21) generally reflects state law by allowing employees to take time off of work and request workplace accommodations to stay safe at work. However, the policy is missing some important components and clarity that would help ensure that Berkeley complies with the requirements of state law. If Berkeley's policy does not have clear and explicit language that includes all key components of state law, city employees will not have complete information about how to support those experiencing domestic violence in a way that fully complies with the law, and city employees may not understand their rights and responsibilities.

### **The policy does not address sexual assault and stalking, or the rights of employees who have witnessed domestic violence.**

Berkeley's domestic violence leave policy AR 2.21 does not define sexual assault and stalking or state that the policy covers employees dealing with those experiences. The policy also does not explicitly state that witnesses of domestic violence may use leave time to participate in court proceedings, though this right is included in the law. California law establishes employees' right to take time off from work to protect their health and wellness if they experience domestic violence, sexual assault, or stalking.<sup>12</sup> It also establishes their right to request reasonable accommodations to help them stay safe at work. The law further allows that witnesses of any of these circumstances have the right to use leave time to participate in court proceedings.

In 2018, Human Resources (HR) identified the need for a stand-alone domestic violence leave policy. In quickly meeting this need, HR based the policy on the existing Family Care Leave Policy,<sup>13</sup> which did not include all the terms in the state requirements. The City Attorney's Office reviewed the policy but did not note that some language describing who is covered by the policy was missing. According to HR staff, the policy was limited to a leave policy, which could account for the omission.

<sup>12</sup> California Labor Code sections 230 through 230.2: <https://bit.ly/2YO344z>

<sup>13</sup> This policy allows employees to take leave, beyond what is allowed in other policies, for family care or health issues as required by state and federal law.



Sexual assault can cause psychological, emotional, and physical distress that can lead to problems at work. More than 50 percent of people who have been stalked reported being stalked at work.

If Berkeley's policy does not explicitly define and address sexual violence and stalking as defined in state law, there is a risk that employees with these experiences will not know that they have rights under the policy. Additionally, supervisors may not be able to provide correct information to employees who are either facing these issues themselves or are witnesses. By not explicitly including these provisions from the law, there is an increased risk that city staff will not respond appropriately if someone experiencing sexual assault or stalking comes forward to seek assistance. As a result, employees experiencing sexual assault and/or stalking may not get the workplace assistance that they are allowed and they may face greater risk of harm, trauma, or even death. These risks can affect not only the person experiencing domestic violence but also their coworkers.

### **The policy does not state factors used in determining whether accommodations are reasonable.**

Berkeley's policy AR 2.21 states that employees may request *reasonable* accommodations for their safety while at work, but does not include language from state law that describes how employers should evaluate whether a request is reasonable. If an employee reports that they are experiencing domestic violence and requests accommodations to stay safe at work, state law requires employers to engage in a timely, good faith, and interactive process with the employee to determine effective reasonable accommodations. This provision is included in Berkeley's policy, but does not explicitly state that HR considers employee circumstances and needs in addition to impact on city operations. The law requires employers to consider the following when determining whether the accommodation is reasonable:

- Employers must consider the urgency of the circumstance or danger facing the employee; and
- Employers are not required to undertake an action that constitutes an undue hardship on their business operations (requiring significant difficulty or expense).

Including this language in the policy would help city staff charged with arranging accommodations to better understand what factors to consider in determining if they are reasonable. Without this guidance, supervisors and HR staff may not consistently align with the law or apply the policy.



Impacts of domestic violence can affect not only the person experiencing domestic violence, but also their coworkers.



State law requires employers to engage in a timely, good faith, and interactive process with the employee to determine effective and reasonable accommodations.



## The policy title is focused on leave and is not comprehensive.

The title of Berkeley’s policy in AR 2.21 is “Domestic Violence Leave Policy,” which implies that the topic is limited to taking leave related to domestic violence rather than a comprehensive response to employees experiencing or who have witnessed domestic violence, sexual assault, or stalking. State law goes beyond allowing leave to also granting the right for employees to request accommodations to help them stay safe at work. The title of the policy may be misleading to both employees and supervisors seeking information about the full range of support available to employees and how to access it. An accurate descriptive title can help employers easily communicate to employees what the policy covers and provide the information they need.

## The policy does not allow exceptions for employees to self-certify their leave or accommodation.

Domestic violence circumstances and employee needs vary, yet Berkeley’s policy AR 2.21 does not provide HR the flexibility to tailor its response based on employees’ specific situation. If employees have an unexcused absence from work due to the effects of domestic violence, the law allows *but does not require* employers to request proof that the absence was for that reason.

Berkeley’s policy requires employees who have had an unexcused absence to retroactively provide certification to justify their use of leave in all instances. Certification can include a police report, restraining order, or note from a doctor, counselor, or domestic violence or sexual assault advocate.

Berkeley’s requirement also conflicts with guidance from domestic violence experts who state that it is important for policies to be flexible enough to allow for a case-by-case approach that responds to the unique circumstances individuals face. They also state that the needs of an individual experiencing domestic violence and how they choose to seek assistance can vary depending on many factors including their culture, support network, and access to resources. Some of the actions people take to stay safe may not provide official documentation. There is a risk that seeking services that provide documentation may result in increased danger and retaliation, especially considering that leaving an abusive relationship is usually the most dangerous point in a person’s domestic violence experience.<sup>14</sup>



California state law allows but does not require employers to request proof that the absence was for one of the reasons specified in the law.

<sup>14</sup> National Coalition Against Domestic Violence: <https://ncadv.org/why-do-victims-stay>

Some of the actions people take to stay safe provide individuals with official documentation. For example, if law enforcement is called to a domestic violence situation, they are likely to issue an immediate temporary restraining order that could serve as documentation. Similarly, if an individual accesses services from a domestic violence agency or organization, such as staying in a shelter or participating in regular counseling, it is standard for the agency to issue documentation that clients can give to their employer.

However, some actions do not necessarily provide documentation. For example, leaving an abusive situation by moving into another family member's home may not involve domestic violence services or documentation, especially if law enforcement was not involved. Leaving a partner who harms or abuses is often the most dangerous time in a person's domestic violence experience, and there is a risk that seeking services that provide documentation may result in increased danger and retaliation. In the rare circumstances when an employee experiencing abuse may not have documentation, HR could allow employees to sign a statement certifying that they are using leave or requesting accommodations related to the allowed purpose.

HR staff reported that, in practice, they do consider individual needs and work interactively with employees to find the combination of leave time and accommodations that is the greatest benefit to the employee. They also reported that they prioritize getting employees the time off they need over getting documentation. However, it is important to document that practice in the policy to ensure it continues when new HR staff take on the role of administering the policy. It is also important that the policy state that HR may use its discretion to determine when additional supporting documentation may be necessary or when accepting a signed statement may be appropriate.

To encourage employees experiencing domestic violence to seek assistance from HR, the policy should specify that employees can come to HR regardless of whether they initially have supporting documentation. HR could also specify that a signed statement, like the one required for bereavement leave, can be acceptable to justify the need for accommodations. Domestic violence issues are unique to individual circumstances. Therefore, domestic violence leave policy elements do not necessarily need to apply to other city policies about employee leave and accommodations.



Leaving a partner who abuses is often the most dangerous time in a person's domestic violence experience. Therefore, there is a risk that seeking services that provide documentation may result in increased danger and retaliation.



Domestic violence is widely underreported. People experiencing domestic violence and abuse face many barriers to coming forward, including fear of discrimination or retaliation at work.

## Recommendations

To reflect the full extent of state law, we recommend Human Resources revise the policy to:

- 1.1 Define and include sexual assault, stalking, and witnesses' rights.
- 1.2 State that when assessing safety accommodations, Human Resources takes into consideration danger to the employee and undue burden to the employer.

To clearly communicate the policy to employees and supervisors, we recommend Human Resources:

- 1.3 Revise the policy title to reflect the comprehensive scope of the policy.

To allow Human Resources the flexibility to tailor its response to individual domestic violence circumstances, we recommend Human Resources revise the policy to:

- 1.4 Clarify that requirements for employees to document their use of leave or request for accommodations are at the discretion of Human Resources and may include self-certification when appropriate. We also recommend that Human Resources clarify that employees are encouraged to come to Human Resources for assistance even if they do not initially have the documentation that may be requested.

## Berkeley's Policy Does Not Address Key Workplace Domestic Violence Issues

Berkeley has taken an important first step in establishing a stand-alone domestic violence leave policy AR 2.21, but it is missing key elements that could guide staff in responding to common related issues. More than 70 percent of employers in the U.S. do not have a formal program or policy that addresses domestic violence.<sup>15</sup> Berkeley is notable among employers because it has created a policy. However, Berkeley can do more to help navigate the challenges that result from domestic violence by adopting elements from model domestic violence response policies. Berkeley has an opportunity to develop its policy into a more comprehensive response to domestic violence in the workplace and demonstrate its commitment to keeping its workplace community safe.

Model workplace domestic violence response policies state that HR staff and supervisors need guidance on topics beyond allowing leave time and accommodations, including how to handle work performance issues for staff experiencing domestic violence and how to ensure accommodations are effective for staff in different work settings. Berkeley's policy contains only three of 12 model policy elements that address key domestic violence issues that affect the workplace (see Table 2).

<sup>15</sup> National Domestic Violence Hotline: <https://www.thehotline.org/resources/statistics/>

**Table 2. Comparison of Berkeley’s Domestic Violence Leave Policy AR 2.21 to Model Domestic Violence Response Policies**

| Model Policy Elements                                                                                                                                 | Model Policies     |                          |                       | Berkeley’s Policy (AR 2.21) |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|--------------------------|-----------------------|-----------------------------|
|                                                                                                                                                       | Workplaces Respond | American Bar Association | Department of Justice |                             |
| Statement of support for employees                                                                                                                    | Yes                | Yes                      | Yes                   | Yes                         |
| Explanation of leave time and accommodations available to employees                                                                                   | Yes                | Yes                      | Yes                   | Yes                         |
| Statement on non-discrimination and non-retaliation related to domestic violence experience                                                           | Yes                | Yes                      | Yes                   | No <sup>16</sup>            |
| Addresses employee work performance issues in the context of domestic violence experience                                                             | Yes                | Yes                      | Yes                   | No                          |
| Designates responsibility of employer in helping employee to access unemployment insurance if maintaining work is no longer viable                    | Yes                | Yes                      | No                    | No                          |
| Designates training requirements for domestic violence issues                                                                                         | No <sup>17</sup>   | Yes                      | Yes                   | No                          |
| Emphasizes prompt or immediate response to an employee reporting domestic violence                                                                    | Yes                | Yes                      | Yes                   | Yes                         |
| Emphasizes prompt or immediate response to domestic violence incidents between employees                                                              | Yes                | Yes                      | Yes                   | No <sup>18</sup>            |
| Inclusion of different work locations and settings in workplace definition                                                                            | N/A                | N/A                      | Yes                   | No                          |
| Definitions of all relevant terms related to domestic violence issues and specified in the law                                                        | Yes                | Yes                      | Yes                   | No                          |
| Section discussing the importance of maintaining domestic violence survivor confidentiality                                                           | Yes                | Yes                      | Yes                   | No <sup>19</sup>            |
| Designates employer responsibility relative to restraining order enforcement, including if the person using violence or abuse is also a city employee | Yes                | Yes                      | Yes                   | No                          |

Sources: Policies listed in column headers, interviews with domestic violence organizations, and auditor conclusion.

<sup>16</sup> Discussed in other workplace policies, but not Administrative Regulation 2.21: Domestic Violence Leave Policy.

<sup>17</sup> Workplaces Respond discusses the purpose of the policy as supporting a comprehensive education and training program.

<sup>18</sup> A separate policy on violence in the workplace specifies “immediate” response, but that is not stated in the Domestic Violence Leave Policy (AR 2.21).

<sup>19</sup> AR 2.21 Domestic Violence Leave Policy states that supervisors and HR should keep information confidential but does not emphasize the importance of confidentiality or provide detail about how to ensure confidentiality.

In addition to elements identified in model policies, there are other best practices that could help Berkeley meet employees' needs. One recommendation from domestic violence organizations relevant to Berkeley's diverse community is that domestic violence response policies should make a commitment to providing support that is inclusive and representative of the community's cultural and linguistic diversity. This is critical to ensuring that a workplace domestic violence response policy is sensitive to the intersection between domestic violence and factors such as race, culture, and language. This view is not expressed in the City's stand-alone domestic violence leave policy. Making this commitment would distinguish Berkeley as a leader in workplace domestic violence response and align its policy with Berkeley's core values of safety, health, equity, and respect.

Without including the best practices such as those listed above, Berkeley may not be prepared to respond to many of the issues that may occur when an employee experiences domestic violence. As a result, the City may not be able to adequately protect employees experiencing domestic violence or support their success at work and continued employment. A lack of effective support for employees experiencing domestic violence could also cost Berkeley through decreased productivity and employee performance, and increase the risk of harm to employees.

## Recommendation

**To ensure Berkeley's policy addresses relevant domestic violence issues in the workplace, we recommend Human Resources revise its policy to:**

- 2.1 Incorporate the model policy and all best practice elements described in this finding, and communicate this guidance to city staff.



Berkeley's Core Values: Service, Collaboration, Respect, Equity, Accountability, Continuous Learning, Innovation, Safety, and Health

## Berkeley Needs to Take Steps to Prepare All Staff to Comply with the Policy

Berkeley employees are not prepared to implement a comprehensive domestic violence response policy. Without engaging in training, outreach, and collaboration, Berkeley cannot implement a comprehensive system to support employees experiencing domestic violence, sexual assault, or stalking. Berkeley has taken a first step in establishing a stand-alone domestic violence leave policy, but has not yet planned for how it will use best practices to fully implement the policy.

To be a leader in effective and thoughtful approaches to responding to domestic violence in the workplace, Berkeley will need to take steps to prepare all staff to comply with the policy as intended. There are practices that Berkeley is not currently following but can adopt to be better positioned to implement a robust, coordinated, and supportive domestic violence response plan. These include:

1. **Training** for all supervisors about domestic violence at work and the expectations for how they should respond;
2. **Outreach and education** to inform employees about domestic violence in the workplace and ways in which the City can support them;
3. **Collaboration** with resources in the City and in the community to strengthen Berkeley's domestic violence response; and
4. **Commitment to an inclusive and trauma-informed perspective** in addressing domestic violence at work.

### Provide training and guidance for supervisors.

Supervisors need training to understand the domestic violence response policy and their role in following the policy. Supervisors and HR staff will also need training on the best practices for supporting employees experiencing domestic violence. All staff should be included in some level of information sharing about the policy because an employee experiencing domestic violence may be more willing to first report domestic violence to a coworker or supervisor they regularly work with rather than to HR. Without training on how to address performance issues that could be related to abuse, supervisors are not equipped to respond appropriately. HR should



“Employers have an important role to play [and by] providing support for employees who experience abuse, HR professionals may be able to prevent workplace tragedies.”

- Society for Human Resources Management, “When Domestic Violence Comes to Work”

provide training to help supervisors and HR personnel respond appropriately and sensitively to employees with domestic violence concerns. Trainings should include guidance on how to handle performance issues related to domestic violence.

### **Inform employees about the policy and encourage them to seek assistance.**

Ongoing outreach and education about the domestic violence response policy can both inform employees about their options to address domestic violence and provide encouragement for them to seek the available assistance. In one national survey of U.S. workplaces, two out of three respondents reported that they were not aware of their workplace having a domestic violence response policy.<sup>20</sup> Employees who do not know about their rights or the City's policy, or who do not feel comfortable reporting their domestic violence experience, may not request the time off or accommodations they need to address domestic violence concerns. Informing all staff about the domestic violence response policy can also help staff understand the expectations of their role and mitigate the risk that Berkeley may be liable if staff are not sufficiently informed to follow the policy as intended. Actions HR could take to facilitate ongoing outreach include:

- Developing outreach materials using different types of media to let employees know about their rights as specified in the City's domestic violence response policy. Outreach materials should include language that is supportive, understandable, and trauma-informed (see text box below);
- Making sure outreach materials and information about domestic violence resources in the community are accessible to all employees, including on the City's website on a page that uses web-safety protocols; and
- Informing employees about the policy through the employee newsletter, Berkeley Matters, all-staff email communications, and, for staff without computer or internet access, by asking managers to share this information.



Considering current workload and capacity constraints, Human Resources can explore options such as providing short video trainings for supervisors and including domestic violence training in existing supervisor trainings.



Web safety protocols are steps organizations can take to help people stay safe by keeping their internet use private when accessing information online. Protocols include adding a safety alert header or a quick escape button to a website. More tips for technology safety can be found at NNEDV.org.

<sup>20</sup> Corporate Alliance to End Partner Violence: <http://www.ncdsv.org/images/CAEPVSurvey.WorkPlace.pdf>



A **trauma-informed** approach 1) takes into account that all people may have experienced trauma, 2) includes the individuals in decisions about their wellbeing, and 3) promotes a culture of safety, empowerment, and healing.

An **inclusive** response considers employees' needs across differences in socio-economic status, race, culture, language, age, gender, and sexual orientation. Resources and information should be accessible to people across these differences.

## Collaborate with city staff on domestic violence response.

By collaborating with city employees who have expertise in domestic violence and crisis response, such as mental health providers and law enforcement, Berkeley can build capacity to promote a supportive and safe workplace. HR and city staff are not expected to be experts in domestic violence or provide supportive services such as shelter, counseling, or legal services. Convening a domestic violence response team would help HR access the knowledge and experience needed to develop a comprehensive domestic violence response that considers the many different perspectives of Berkeley's diverse employees. Actions HR could take to facilitate collaboration include:

- Convening a domestic violence response team with City staff, such as mental health providers and law enforcement, who are informed about domestic violence to advise on policies, outreach, and education;
- Communicating with representatives in each department that may be involved in a workplace accommodation to establish a response process and clarify roles. Those departments may include: HR, IT, OSHO/building security, public works, police, the City Attorney's Office, and the City Manager's Office; and
- Contacting domestic violence organizations and the City's Employee Assistance Program provider to develop a list of culturally-specific and linguistically-representative resources to refer employees to when they request help.



The City has department experts on issues and services related to domestic violence, such as mental health professionals in the Health Housing & Community Services Department and Berkeley Police Department's Domestic Violence Prevention Unit. These experts can advise Human Resources on the tone and language of the policy, training, and outreach materials.

## Adopt a trauma-informed and inclusive approach.

Domestic violence organizations emphasize the importance of using a trauma-informed approach to developing a domestic violence response policy and response. Doing so takes into consideration the needs of people who have experienced trauma and provides referrals to resources that can support healing. They also emphasize that experiences of domestic violence can vary depending on an individual's circumstances and that a domestic violence response should be inclusive. An inclusive response considers employees needs across differences in socio-economic status, race, culture, language, age, gender, and sexual orientation. A thorough explanation of trauma-informed and inclusive principles is beyond the scope of this audit, but we included a high-level summary in the textbox above. A trauma-informed approach can help prevent employers from causing additional harm to someone experiencing domestic violence. An inclusive perspective is also essential to developing a domestic violence response that is as effective as possible for employees from different backgrounds. Actions HR could take to adopt a trauma-informed and inclusive approach include:

- Providing training to HR staff and supervisors about trauma-informed and inclusive principles;
- Applying a trauma-informed lens to addressing performance issues;
- Using a supportive and non-judgmental tone for policy and related communication;
- Ensuring flexibility in policy and options to reasonably meet unique needs of each individual; and
- Maintaining an up-to-date and accurate directory of resources to refer employees to, including culturally-specific and linguistically appropriate options (see Appendix III).

## Recommendation

To prepare Berkeley employees for implementing an inclusive domestic violence response policy, we recommend Human Resources:

### 3.1 Implement best practices, including:

- Training supervisors and Human Resources staff about their role in responding to employees experiencing domestic violence and providing information for employees about the domestic violence response policy;
- Conducting periodic outreach to employees to inform them about the policy, encourage them to come forward, and provide general information about domestic violence;
- Facilitating collaboration among city staff who have a role in implementing the policy, and convening a domestic violence response team to advise on policies, ongoing outreach and education, and Human Resources' implementation of recommendations from this audit; and
- Adopting a trauma-informed and inclusive approach.

## Appendix I—Methodology and Statement of Compliance

### Methodology

We audited the City of Berkeley’s current domestic violence leave policy for city employees. We performed a risk assessment of the City’s policy and of domestic violence in the workplace to identify potential internal control weakness, health and safety concerns, and fraud risks. There were no fraud risks significant to our objectives. We focused our audit on the City’s policy and preparedness to respond to domestic violence concerns. We did not review how the City responded to current or past instances of employees experiencing domestic violence. We provided a copy of the draft report to the Health, Housing, and Community Services Department, the City Attorney, and the Police Department. To accomplish our audit objectives, we:

- Reviewed State of California Labor Code Sections 230, 230.1, and 230.2 governing employers’ responsibilities to employees who report experiencing domestic violence, sexual assault, or stalking, or who have witnessed such circumstances.
- Reviewed California Government Code Section 12926 to understand the legal definition of “undue hardship” and California Labor Code Section 6400 to understand the legal definition of a “place of employment that is safe and healthful” as both are referred to in California Labor Code Section 230.
- Reviewed Administrative Regulation 2.21: Domestic Violence Leave Policy; Administrative Regulation 2.4: Family Care Leave; Employee Violence in the Workplace and Employee Security Policy; and Bereavement Leave Policy to understand the city policies relevant to employee leave and safety.
- Interviewed Human Resources staff to gain an understanding of their process for developing and using the policy, and to understand their needs when supporting staff using the policy.
- Interviewed City Attorney staff to understand the process that city policies go through for review and approval in the City Attorney’s Office, and the specific review of Administrative Regulation 2.21: Domestic Violence Leave Policy.
- Reviewed best practices and studies from organizations focused on helping persons experiencing domestic violence to understand the impact of domestic violence in the workplace and what subject-matter experts suggest employers do to address the concern. Specifically, we looked at information from National Domestic Violence Hotline; Futures Without Violence; Rape, Abuse & Incest National Network; National Network to End Domestic Violence; Narika; Women Organized to Make Abuse Nonexistent, Inc. (W.O.M.A.N., Inc.); National Coalition Against Domestic Violence; Maine Department of Labor: Family Crisis Services; and Society for Human Resources Management.
- Reviewed model policies from organizations that focus on domestic violence in the workplace to understand what information policies need to include. Specifically, we looked at policies from Workplaces Respond to End Domestic and Sexual Violence: National Resource Center; American

Bar Association; U.S. Department of Justice; and Legal Momentum: The Women's Legal Defense and Education Fund.

- Reviewed King County, Washington's audit, *Domestic Violence Resources for County Employees Are Limited and Hard to Find*, to identify best practices, model policies, and common issues found in government jurisdictions in regards to responding to those experiencing domestic violence. We also reviewed Kind County's Peer Review, which concluded the organization and sufficient quality control system were in place. We, therefore, concluded we could rely on the results of their audit.
- Reviewed policies on domestic violence in the workplace from the City and County San Francisco, City of Los Angeles, and King County, Washington to understand what other local government jurisdictions have developed.
- Obtained Berkeley City Resolution 68,301-N.S. co-authored by Berkeley's Peace and Justice Commission and Commission on the Status of Women resolving that freedom from domestic violence is a human right to understand local concerns regarding the effects of domestic violence.
- Obtained the City of Berkeley's Strategic Plan to understand the core values as they may apply to the city's workforce.
- Reviewed labor agreements between the City of Berkeley and its unions, associations, and bargaining units to understand which contracts include explicit language regarding domestic violence leave.
- Gathered statistics on domestic violence at the national, state, and local level to understand the prevalence of domestic violence. We specifically obtained statistics from National Domestic Violence Hotline; Alameda County Department of Public Health; National Bureau of Labor Statistics; National Coalition Against Domestic Violence; Workplaces Respond to End Domestic and Sexual Violence: A National Resource Center; and Corporate Alliance to End Partner Violence.

## Domestic Violence Statistics

Domestic violence is a sensitive topic making it difficult to obtain current, complete data. Research relies on people to self-report their domestic violence experiences and many people are unable to do so. Additionally, the organizations we cite in this report used varying sources, dates, population sizes, and other factors in their studies. As a result, some of the statistics we use in this report are several years old or do not match precisely across studies, e.g., one statistic may say 70 percent while another says 65 percent for the same topic. However, what is consistently true is that domestic violence is a severe and prevalent problem, it shows up in the workplace, and it can have devastating effects on those experiencing domestic violence and their colleagues. Further, the organizations that conducted the studies are knowledgeable on the effects of domestic

violence and, therefore, credible in their work. As such, we determined that the statistics were sufficiently reliable for providing context in our report.

## Independence Assessment

The lead auditor for this report serves as our office's Area Safety Monitor (ASM). The role of the ASM is to discuss safety issues with the City's Occupational Health & Safety Officer (OHSO) during regular safety committee meetings for city employees, and to share safety information between the OHSO and our office. It was serving in this capacity that the concern regarding the City's domestic violence leave policy came to our attention. The lead auditor also has had prior experience working and volunteering with people experiencing domestic violence. We assessed the role of the ASM and the lead auditor's former experience. This included consulting with an external audit expert on audit independence standards. We concluded that no independence impairments exist. Nonetheless, to support our commitment to independence, we put safeguards in place to address any potential perception that impairments did exist. Safeguards include disclosing this information in this report, and ensuring that the Audit Manager verified that our audit findings, conclusions, and recommendations are supported by unbiased, factual, sufficient, and appropriate audit evidence.

## Statement of Compliance

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Appendix II—Management Response

We provided a draft of this report to City Management and the Human Resources Department (HR) for review and comment. HR provided comments, which are reproduced in full below. In its comments, HR agreed to our findings and conclusions and agreed with five recommendations, but did not agree with one recommendation.

HR concurred with our recommendation 1.1 to revise the policy to define and include sexual assault, stalking, and witnesses' rights as well as with recommendation 1.2 to revise the policy on considerations in assessing safety accommodations. They also agreed to revise the title in recommendation 1.3 to be more comprehensive.

HR did not agree to allow employees to self-certify their leave request as we proposed in recommendation 1.4. The department said that, in its efforts to be consistent in its application of leave protected by legal mandate, that it is essential for employees to obtain documentation as allowed by law. We understand their perspective but note that the state law uses the language "may obtain" rather than "mandate." for the list of possible documentation. In our work focusing on identifying risks, we want to ensure that in rare circumstances employees can attest to their unique situation. For some, obtaining documentation poses an obstacle that they may be unable to overcome even in life-threatening circumstances. This is a risk that could be addressed through self-certification. HR agreed to our proposal in recommendation 1.4 to encourage employees to come forward for help even if they do not have documentation. HR also informed us that they will work closely with employees to first prioritize their safety and connect them with help through the Employee Assistance Program to obtain documentation. While we understand the confines within which HR must operate, we continue to encourage flexibility to allow for employees to forego the certification requirement in rare circumstances.

HR expressed its commitment to the intent of recommendations 2.1 and 3.1. While the department agreed to those recommendations, it is still evaluating how best to fully implement them within the boundaries of its operations. Our recommendations are not meant to require HR to take actions for which they are not qualified. Therefore, as part of our follow-up process, we will be actively engaging with HR to continue to help them understand the purpose of our recommendations so that they implement them only as intended. We want to emphasize the importance of collaborating with domestic violence experts working in the city in developing policies and trainings, and that these are created and implemented through a trauma-informed lens. Ultimately, we made these recommendations with the intention of mitigating safety and harm risks to the city when addressing domestic violence issues.

Below are HR planned corrective actions and proposed implementation dates. We will monitor their progress through our follow-up process and the department will provide City Council with regular updates on its actions until they address all of our recommendations.

## 1.1 To reflect the full extent of state law, we recommend Human Resources revise the policy to define and include sexual assault, stalking, and witnesses' rights.

**Management Response:** Concur

**Proposed Implementation Plan:** Note: Proposed changes to the language of the current policy are indicated by italics.

Add Witnesses To Policy: Human Resources proposes to modify the language of Administrative Regulation No. 2.21 at Section II "Policy," such that the first sentence reads as follows: "The City of Berkeley is committed to promoting a work environment that is supportive of victims of domestic violence, *testifying witnesses*, and the effects the abuse can have on employees and the workplace."

Add Witnesses To Definitions: Human Resources proposes to add language to Administrative Regulation No. 2.21 at Section III "Definitions," to include the following sentence: "*D. Witness -- A witness is an employee required by subpoena or other court order to testify as a witness at any judicial proceeding.*"

Add Witnesses To Procedures: Human Resources proposes to modify Administrative Regulation No. 2.21 at Section IV "Procedures" to reflect the provisions in Labor Code Section 230(b), regarding witnesses. The following paragraph may be added under IV, A., 6: "*6. Procedure for Witnesses: An employee who requests time off to serve as a witness in any judicial proceeding must produce either a subpoena or other court order to immediate supervisor requiring their appearance as a witness in any judicial proceeding, including but not limited to restraining orders hearings, family court hearings, and trial.*"

Note Re Accused/Alleged Perpetrators As Witnesses: Human Resources may also add a brief note indicating that the City also permits leave under this policy for testifying witnesses who are accused of domestic violence, sexual violence, stalking, etc. Labor Code Section 230(b) protects subpoenaed witnesses when required to testify in "any judicial proceeding."

Modify Definition of Perpetrator: Because of the updates related to sexual assault and stalking, HR proposes to revise the definition of perpetrator in Administrative Regulation No. 2.21 at Section III. "Definitions," C. "Perpetrator" as follows: "*Perpetrator – The individual who commits or threatens to commit an act of domestic violence, sexual assault or stalking.*"

Adding Sexual Assault And Stalking: Human Resources proposes to modify Administrative Regulation No. 2.21 at Section IV "Procedures," A. "Request for Time Off" to read as follows: "Employees who are victims of domestic violence, *sexual assault and/or stalking* [...]"

**Proposed Implementation Date:** January 1, 2020



**1.2 To reflect the full extent of state law, we recommend Human Resources revise the policy to state that when assessing safety accommodations, Human Resources takes into consideration danger to the employee and undue burden to the employer.**

**Management Response:** Concur

**Proposed Implementation Plan:** Human Resources proposes to revise Administrative Regulation No. 2.21 at Section V. “Responsibilities,” C. “Human Resources Department,” to provide, in accordance with Labor Code Section 230(f), that: *“In determining whether the accommodation is reasonable, the City of Berkeley shall consider an exigent circumstance or danger facing the employee. This does not require the City to undertake any action that constitutes an undue hardship on the employer’s business operations.”*

The above sentence would be inserted prior to the last sentence in the current Regulation. The last sentence reads: “To the extent required by law, the Human Resources staff will maintain confidentiality of any employee requesting time off.”

**Proposed Implementation Date:** January 1, 2020

**1.3 To clearly communicate the policy to employees and supervisors, we recommend Human Resources revise the policy title to reflect the comprehensive scope of the policy.**

**Management Response:** Concur

**Proposed Implementation Plan:** Human Resources proposes to revise the title to read: *Domestic Violence, Other Protections and Leave Policy*, and advise employees of changes to the policy which include protections for victims of sexual violence, stalking and witnesses giving testimony. Additionally, further definitions listed in Section 1.1 give sufficient notice of bases for leave and reasonable accommodation.

**Proposed Implementation Date:** January 1, 2020

**1.4** To allow Human Resources the flexibility to tailor its response to individual domestic violence circumstances, we recommend Human Resources revise the policy to clarify that requirements for employees to document their use of leave or request for accommodations are at the discretion of Human Resources and may include self-certification when appropriate. We also recommend that Human Resources clarify that employees are encouraged to come to Human Resources for assistance even if they do not initially have the documentation that may be requested.

**Management Response:** Disagree

**Proposed Implementation Plan:** This recommendation is not reflective of requirements under Labor Code Section 230.

Request for time off: Section 230 provides that when an unscheduled absence occurs, employer shall not take any action against employee until employee provides certification within a reasonable time. The mandatory certification requirements listed in Administrative Regulation No. 2.21 are already within legal parameters for taking leave/time off as delineated in Labor Code Section 230(d)(2)(A-C). Self-certification is not included or discussed in this portion of the statute. Human Resources proposes to add a Section IV. A. 2. iv. Which provides as follows: “*iv. A written declaration or statement by employee request for the applicable leave and agreement to submit one of the listed items listed in i. through iii. within ten (10) calendar days within leave request.*”

Request for an accommodation: When employee requests an accommodation, however, the self-certification *may* be requested by the employer and submitted by the employee. The statute at Section 230(f)(7)(A) refers to self-certification as “a written statement signed by the employee or individual acting on the employee’s behalf, certifying that the accommodation is for a purpose authorized [...]” by the statute.

To be clear, the City is obligated to obtain certification from employees requesting leave for unauthorized absences in the form of police reports, court orders or documentation from a professional. However, when the employee requests a reasonable accommodation, the City may accept self-certification (i.e., a written statement from the employee). To ensure that accommodation requests are consistent with other policies (e.g., FMLA and/or ADA), Human Resources proposes to add a Section IV. B.1. which provides as follows: “*1. In support of a request for reasonable accommodation, an employee shall provide written certification documentation from a medical professional or other healthcare provider concurrent with the accommodation request. Alternatively, an employee may provide a written declaration*

*or statement by the employee followed by documentation from a medical professional or other healthcare provider within thirty (30) calendar days of the accommodation request.”*

The Human Resources staff will engage the employee in an interactive process to determine effective reasonable accommodations that can be provided to aid her/him in safeguarding their health and safety. *When implementing any accommodations Human Resources will ensure that all appropriate benefits are provided, i.e. EAP.* Any reasonable accommodation involving changes to an employees working conditions will be in accordance with the terms of the employee’s MOU, Personnel Rules and Regulations.

HR proposes to add to Section IV. 3 Confidentiality: *The City recognizes the importance of maintaining confidentiality.* The immediate supervisor shall maintain the confidentiality of any employee requesting leave under this regulation.

**Proposed Implementation Date:** January 1, 2020

## 2.1 **To ensure Berkeley’s policy addresses relevant domestic violence issues in the workplace, we recommend Human Resources revise its policy to incorporate the model policy and all best practice elements described in this finding, and communicate this guidance to city staff.**

**Management Response:** Concur

**Proposed Implementation Plan:** Human Resources intends to distribute the policy to city staff via email on a quarterly basis with an explanation of changes. Human Resources may notify employees in Berkeley Matters, highlighting changes and notifying supervisors about changes of which they need to be aware. Following the model policies provided by the Audit Team, Human Resources will add a) the statement of non-discrimination and non-retaliation; b) further definitions of key terms; and c) a sentence addressing the importance of survivor confidentiality.

In addition, Human Resources will assess the feasibility of adopting additional elements from model policies and will add as appropriate at a later date.

**Proposed Implementation Date:** January 1, 2020

### 3.1 To prepare Berkeley employees for implementing an inclusive domestic violence response policy, we recommend Human Resources implement best practices, including:

- Training supervisors and Human Resources staff about their role in responding to employees experiencing domestic violence and providing information for employees about the domestic violence response policy;
- Conducting periodic outreach to employees to inform them about the policy, encourage them to come forward, and provide general information about domestic violence;
- Facilitating collaboration among city staff who have a role in implementing the policy, and convening a domestic violence response team to advise on policies, ongoing outreach and education, and Human Resources' implementation of recommendations from this audit; and
- Adopting a trauma-informed and inclusive approach.

**Management Response:** Concur

#### **Proposed Implementation Plan:**

Training (To Be Implemented By Approx. January 1, 2020): Human Resources may coordinate with organizational trainer Wilhelmina Parker to add policy review to supervisor training to include revised domestic violence policy. Additionally, training announcement to be placed in Berkeley Matters.

Human Resources Will Request Appropriate Resources: Human Resources will be requesting resources to conduct additional year-round training outside of what is currently proposed. The department does not have resources to prioritize domestic violence policy as a program, but aims to make its leave administration consistent with other such as FMLA, ADA, and collaborative with the needs of employees experiencing workplace violence.

Collaborative Approached Already Implemented: Human Resources already collaborates with other departments regarding necessary resources for the employee, including building security, workplace violence prevention, and information technology (changing computer, phone, email, work location). Administrative Regulation No. 2.21 Section IV, 1 ("Procedures") already provides that employees will give reasonable advance notice to their immediate supervisor re leaves and unscheduled absences. In addition, Human Resources already has applicable Leave Specialist in the department available to process leave requests. A response team requires additional resources and may create potential liabilities re HIPAA, privacy and confidentiality as well as inefficient administration.

Human Resources employees are not trained social workers or therapists equipped to provide Response Team services which are outside of the scope of leave administration.

Critical to future deployment and operational implementation, Human Resources will seek broad input from various departments in administration and in training development around this policy.

**Proposed Implementation Date:** Specified for individual components of the implementation plan, above.

## Appendix III—Domestic Violence Resources

### Domestic Violence Resources

To further our intention of providing a roadmap for Berkeley, we wanted to provide some resources for those who could benefit. If you or someone you know are experiencing domestic violence or abuse, sexual assault, or stalking, you are not alone and help is available. Please reach out to one of the following resources for more support:

- If your life is in danger, please call **9-1-1** or your local emergency number.
- **National Domestic Violence Hotline:** Advocates are available 24 hours a day, 365 days a year to help you create a plan to stay safe and refer you to services in your community. Help is available by phone or online chat:

1-800-799-7233 (English and Spanish) | 1-800-787-3224 (TTY) | [thehotline.org](http://thehotline.org)

- **Employee Assistance Program:** City of Berkeley employees have access to counselors through Claremont Employee Assistance Program. Counselors are available by phone 24 hours a day, 365 days a year. Claremont can also refer members to counselors or domestic violence services in your local community. Services are available in many languages and translation services are available:

1-800-834-3773

- **Alameda County Family Justice Center (ACFJC):** The ACFJC website provides helpful information and resources for people experiencing domestic abuse in Alameda County. Information is available that addresses domestic violence and teens, the LGBTQ+ community, immigrants, children, people with disabilities. There is also information about restraining orders, technology safety, housing, and employment. Visit their website:

[http://www.acfjc.org/resource\\_library/domestic\\_violence](http://www.acfjc.org/resource_library/domestic_violence)

## Appendix III—Domestic Violence Resources

### Domestic Violence Resource Guide for Alameda County Guía de Recursos de Violencia Doméstica para el Condado de Alameda

#### 24-HOUR CRISIS LINES

##### Lineas de crisis las 24 hrs. del día

|                                                       |                                |
|-------------------------------------------------------|--------------------------------|
| A Safe Place                                          | 510-536-7233                   |
| Building Futures with<br>Women and Children           | 1-866-292-9688                 |
| Crisis Support Svcs of the E-Bay                      | 1-800-309-2131                 |
| Ruby's Place                                          | 888-339-7233                   |
| Tri-Valley Haven                                      | 1-800-884-8119<br>925-449-5842 |
| Center for Domestic Peace<br>(Español)                | 415-924-6616<br>415-924-3456   |
| WOMAN, Inc. – referrals (SF)<br>(Español)             | 415-864-4722<br>877-384-3578   |
| Next Door                                             | 408-279-2962                   |
| Family Violence Law Center...<br>Mobile Response Team | 1-800-947-8301                 |
| National Domestic Violence Hotline                    | 1-800-799-7233                 |
| Queer Asian Women & Transgender Hotline               | 877-751-0880                   |
| Bay Area Women Against Rape                           | 510-845-7273                   |

#### BATTERER'S TREATMENT

##### Tratamiento para agresores/golpeadores

|                                        |                              |
|----------------------------------------|------------------------------|
| Associated Counseling (SL)             | 510-357-0550                 |
| Davis Street Family Resource Ctr. (SL) | 415-472-3275                 |
| John Hamel & Associates (B)            | 510-644-8190                 |
| Men Creating Peace (O/SF)              | 510-730-0184                 |
| Peace Creations (CV)                   | 925-833-9505                 |
| Second Chance (H)<br>(N)               | 510-886-8696<br>510-792-4357 |
| Terra Firma Diversion (H)              | 510-675-9362                 |
| Triumph (O)                            | 510-636-4111                 |
| West Oakland Health Council (O)        | 510-729-8800                 |

#### CHILD ABUSE SERVICES

##### Servicios de abuso infantil

|                                         |              |
|-----------------------------------------|--------------|
| Child and Family Services (Alameda Co.) | 510-259-1800 |
| (SF)                                    | 415-558-2650 |

#### COUNSELING SERVICES

##### Servicios de asesoramiento/Consejería

|                                                 |                              |
|-------------------------------------------------|------------------------------|
| ACCESS Mental Health Referrals                  | 1-800-491-9099               |
| Alameda Family Services (A)                     | 510-629-6300                 |
| Asian Health Services (O)                       | 510-986-6800                 |
| CARE Program (children) (O)                     | 510-428-3407                 |
| Center for Non-abusive Relationships (O)        | 510-208-5006                 |
| Community Health for ...<br>Asian Americans (A) | 510-835-2777                 |
| Earth Circles Counseling Center (O)             | 510-601-1929                 |
| Family Paths (O)<br>(H)                         | 510-893-9230<br>510-893-9230 |
| La Familia (H)                                  | 510-881-5921                 |
| Mujeres con Esperanza (O)                       | 510-300-3156                 |
| Mujeres Unidas y Activas (O)<br>(SF)            | 510-261-3398<br>415-621-8140 |
| Rainbow Psychotherapy Assoc. (B)                | 510-420-8083                 |
| Shimtih Korean Center (SL)<br>Korean            | 510-547-2360<br>844-828-2254 |
| The D.O.V.E.S Project (O)                       | 510-428-3135                 |
| Triumph (O)                                     | 510-636-4111                 |
| Berkeley Therapy Institute (B)                  | 510-841-8484                 |

2/08/2019 A. Flores & M. Minard, Alameda County Family Justice Center, 510-267-8800

|                                        |              |
|----------------------------------------|--------------|
| Blue Oak Therapy Center (B)            | 510-649-9818 |
| Jewish Family & Children Services (SF) | 415-449-1200 |

#### COUNSELING *continued*

##### Servicios de asesoramiento, *continua*

|                                            |                              |
|--------------------------------------------|------------------------------|
| Oak Creek Counseling Center (B)            | 1-888-637-7404               |
| UC Psychology Clinic (Sept.-May) (B)       | 510-642-5292                 |
| Hume Center (F)<br>(P)                     | 510-745-9151<br>925-223-8047 |
| Simi Markar, MFT (F)                       | 510-273-9126                 |
| Davis Street Family Resource Ctr (SL)      | 510-347-4620                 |
| Family Services Counseling Ctr (SL)        | 510-483-6715                 |
| Pathways Counseling Center/Girls Inc. (SL) | 510-357-5515                 |
| Tri-Valley Haven                           | 925-449-5845                 |
| Cameron House (Chinese) (SF)               | 415-781-0401                 |
| Women's Daytime Drop-In Center (B)         | 510-548-2884                 |

#### CULTURALLY SPECIFIC RESOURCES

##### Recursos culturalmente específicos

|                                         |                |
|-----------------------------------------|----------------|
| Arab Cultural and Community Center (SF) | 415-664-2200   |
| Asian Health Services (O)               | 510-986-6800   |
| Korean Community Center East Bay (O)    | 510-547-2662   |
| La Clinica de la Raza (O)               | 510-535-4000   |
| Maitri-Indian (San Jose)                | 1-888-862-4874 |
| Narika-South Asian (B)                  | 1-800-215-7308 |
| Shalom Bayit-Jewish (O)                 | 866-742-5667   |
| Terra Firma Diversion-Spanish (H)       | 510-675-9362   |

#### DEAF RESOURCES

##### Recursos para sordos

|                                                   |                                                                                                 |
|---------------------------------------------------|-------------------------------------------------------------------------------------------------|
| DCARA                                             | 510-343-6670                                                                                    |
| DeafHope (O)                                      | <a href="mailto:deafhope@deaf-hope.org">deafhope@deaf-hope.org</a><br>Video Phone: 510-735-8553 |
| Deaf Community Counseling Center (DCCS) (SF) (SL) | 415-474-7310                                                                                    |
| Video Phone (SL):                                 | 510-343-7277                                                                                    |
| Video Phone (SF):                                 | 415-255-5848                                                                                    |

#### ELDER ABUSE SERVICES

##### Servicios para personas mayores víctimas de abusos

|                                                    |                              |
|----------------------------------------------------|------------------------------|
| Adult Protective Services (Alameda County)<br>(SF) | 510-577-3500<br>415-557-5230 |
| API Legal Outreach (O)<br>(SF)                     | 510-251-2846<br>415-567-6255 |
| Area Agency on Aging (Alameda County)              | 510-577-1900                 |
| Institute on Aging (SF)                            | 415-750-4111                 |
| Legal Assistance for Seniors (O)                   | 510-832-3040                 |
| Victim Witness (O)                                 | 510-272-6180                 |

#### HEALTHCARE RESOURCES

##### Recursos para el cuidado de la salud

|                                        |              |
|----------------------------------------|--------------|
| Axis Community Health (P)              | 925-462-1755 |
| Berkeley Free Clinic (B)               | 510-548-2570 |
| Davis Street Family Resource Ctr. (SL) | 510-347-4620 |
| Healthy Communities (O)                | 510-444-9655 |
| Highland Hospital (O)                  | 510-437-4800 |
| La Clinica de la Raza (O)              | 510-535-4000 |
| La Familia (H)                         | 510-881-5921 |
| Native American Health Center (O)      | 510-535-4400 |
| Public Health Dept. Immunizations (O)  | 510-267-3230 |
| Tiburcio Vasquez (H/U)                 | 510-471-5907 |
| Tri-City Health Center (Fremont)       | 510-770-8133 |

Location Key: Oakland (O), Berkeley (B), Fremont (F), Hayward (H), Livermore (L), Newark (N), Pleasanton (P), San Leandro (SL), San Ramon (SR), Santa Clara County (SC), Castro Valley (CV)

## Appendix III—Domestic Violence Resources

### Domestic Violence Resource Guide for Alameda County Guía de Recursos de Violencia Domestica para el Condado de Alameda

Urban Indian Health Board (O) 510-535-4400  
West Oakland Health Center (O) 510-835-9610

#### LAW ENFORCEMENT

##### Aplicación y ejecución de la ley

##### For life-threatening emergencies call 911

Alameda Police Department 510-337-8340  
Albany Police Department 510-525-7300  
Berkeley Police Department 510-981-5900  
Dublin Police Department 925-833-6670  
Emeryville Police Department 510-596-3700  
Fremont Police Department 510-790-6800  
Hayward Police Department 510-293-7272  
Livermore Police Department 925-371-4900  
Newark Police Department 510-578-4237  
Oakland Police Department 510-777-3333  
Pleasanton Police Department 925-931-5100  
San Leandro Police Department 510-577-2740  
Union City Police Department 510-471-1365  
Alameda Co. Sheriff's Department 510-670-5048

#### LEGAL SERVICES

##### Servicios legales

Alameda County BAR Association (O) 510-302-2222  
API Legal Outreach (O) 510-251-2846  
(SF) 415-567-6255  
Bay Area Legal Aid (O) 1-800-663-4744  
Family Violence Law Center (O) 1-510-208-0220  
Family & Children Law Center (SF) 415-492-9230  
Self-Help Center (H) 510-272-1393  
Employment Law Center (SF) 415-864-8848  
Tri-Valley Haven 925-449-5842

#### LGBT RESOURCES

##### Recursos para lesbianas, homosexuales,

##### bi-sexuales y transexuales

CUAV (SF) 415-777-5500  
Hayward Lighthouse Center (referrals) 510-881-8167  
Pacific Center (B) 510-548-8283  
Project Eden (H) 510-413-3487  
Queer Asian Women Services (SF) (Shelter) 415-751-7110  
San Francisco LGBT Center 415-865-5555  
Tri-Valley Haven 800-884-8119

#### SEXUAL ASSAULT

##### Ayuda para víctimas de asaltos sexuales

Bay Area Women Against Rape (O) 510-430-1298  
CALCASA (Sacramento) 916-446-2520  
Contra Costa Rape Crisis 1-800-670-7273  
Highland Hospital (O) 510-437-4800  
San Francisco Women Against Rape 415-861-2024  
Tri-Valley Haven 1-800-884-8119

#### SHELTERS

##### Albergues/Refugios

A Safe Place 510-536-7233  
Asian Women's Shelter 415-751-0806  
Building Futures with Women and Children 1-866-292-9688  
Eden I&R 2-1-1  
510-537-2710  
Ruby's Place 888-339-7233  
La Casa de Las Madres 415-503-0500  
Next Door 415-487-3300  
Riley Center 415-597-7960  
SAVE 510-794-6055  
Second Chance 510-792-4357  
Shepherd's Gate 925-443-4283  
Tri-Valley Haven 1-800-884-8119  
WOMAN, Inc. – referrals (SF) 415-864-4722

#### TRANSITIONAL HOUSING

##### Alojamiento de transición

Alameda Point Collaborative (O) 510-898-7800  
Bonita House (B) 510-526-4765  
BOSS 510-841-5572  
Henry Robinson (O) 510-238-5091

#### IMMIGRATION ASSISTANCE

##### Asistencia de inmigración

Bay Area Legal Aid (O) 510-663-4744  
Centro legal de la Raza (O) 510-437-1554  
East Bay Sanctuary (B) 510-540-5296  
Immigration Center for Women & Children (SF) 415-861-1449  
International Institute of the Bay Area (O) 415-538-2846

#### MISCELLANEOUS

##### Misceláneo

Alameda County Community Food Bank 510-636-3773  
Department of Child Support Services (P) 1-866-901-3212  
District Attorney's Office (O) 510-272-6222  
Family and Children's Bureau (O) 510-690-2500  
Victim Witness Assistance Division (O) 510-272-6180  
Victim Compensation Program (O) 510-272-5044

#### SERVICES FOR MALE VICTIMS

##### Servicios para las víctimas masculinas

**Except for shelter, most of the agencies listed make their services available to male victims of domestic violence. Please call agency for more information.**

**For a wide range of domestic violence related services call**

**Alameda County Family Justice Center**

**(510) 267-8800**



### **Mission Statement**

Promoting transparency and accountability in Berkeley government.

### **Audit Team**

Claudette Biemeret, Audit Manager  
Caitlin Palmer, Auditor-in-Charge  
Tracy Yarlott-Davis, Audit Team Member

### **City Auditor**

Jenny Wong

### **Office of the City Auditor**

**Phone:** (510) 981-6750

**Email:** [auditor@cityofberkeley.info](mailto:auditor@cityofberkeley.info)

**Website:** [www.cityofberkeley.info/auditor](http://www.cityofberkeley.info/auditor)

Copies of our audit reports are available at  
[www.cityofberkeley.info/Auditor/Home/Audit\\_Reports.aspx](http://www.cityofberkeley.info/Auditor/Home/Audit_Reports.aspx)



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Office of the Mayor

CONSENT CALENDAR  
October 29, 2019

To: Honorable Members of the City Council  
 From: Mayor Jesse Arreguín and Councilmember Ben Bartlett  
 Subject: Budget Referral: Berkeley Age-Friendly Continuum

RECOMMENDATION

Refer to the mid-year budget process \$20,000 for the Berkeley Age-Friendly Continuum.

BACKGROUND

The goal of the Berkeley Continuum is to implement an integrated, replicable and citywide continuum of services and supports for older adults and people with disabilities as they navigate the transitions of aging. The Age-Friendly Berkeley Action Plan was published in December 2018, and is the culmination of several years of community and stakeholder input. It is now in implementation mode. It is a 3-year plan and priority actions for the first year are being finalized. An internal cross-department steering committee has been appointed for the City and the Community Partners Team is also meeting. The City of Berkeley was recently awarded the SCAN Foundation Innovation Award for the State of California for the Continuum's approach to preparing Berkeley for growth in the older population and for people with disabilities.

There are several programs that have been and are in the process of being implemented as a part of the Age-Friendly Continuum:

- The Gateway Program, a prevention/intervention program that helps older adults proactively plan for their aging experience. Three seniors from the community have been trained and are doing well with the visits. An evaluation has been completed and the coming year will focus on how to move this to a sustainable future.
- The project to create a senior portal for easy access to information is in contract with the county vendor and includes collaboration with the county, the Area Agency on Aging, the Berkeley Libraries and the Senior Center.
- The model service linked senior housing/community center project has left the gate and will continue to be developed over the next few years, and the Berkeley Home Match pilot with the University has met its targets and will continue.
- ...and several other projects are in process.

Ashby Village, the fiscal sponsor for the Berkeley Age-Friendly Continuum, has requested \$20,000 from the City for the third year of its implementation. This funding will be matched through other sources.

FINANCIAL IMPLICATIONS

\$20,000

ENVIRONMENTAL SUSTAINABILITY

Berkeley Age-Friendly Continuum aims to improve the quality of life and the health and well-being of older adults.

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100



Office of the Mayor

CONSENT CALENDAR  
October 29, 2019

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín and Councilmember Kate Harrison

Subject: Extension of the Joint Subcommittee for the Implementation of State Housing Laws

RECOMMENDATION

Adopt a Resolution extending the Joint Subcommittee for the Implementation of State Housing Laws (JSISHL) to complete its work by July 2020, with Joint Subcommittee providing its recommendations to Council by the end of September 2020.

BACKGROUND

Established in January 2018, the Joint Subcommittee for the Implementation of State Housing Laws (JSISHL) advises Council regarding issues around density bonuses, the Housing Accountability Act, inclusionary zoning, and permit streamlining to attain compliance with state law and to take advantage of new opportunities for the development of affordable housing. The Joint Subcommittee consists of members from the Zoning Adjustments Board, Planning Commission, and Housing Advisory Commission, with at least one appointee from each, in accordance with the Fair Representation Act. Under its enabling legislation, Resolution No. 68,308-N.S., the Joint Subcommittee is to complete its work by January 2020, presenting its findings to Council by the end of March 2020.

JSISHL has been meeting regularly since April 2018. With the deadline fast approaching and new state legislation being recently approved that falls into the purview of the Joint Subcommittee, it is necessary for an extension in order for JSISHL to adequately and thoroughly review the materials. This includes providing recommendations on units per acre density standards, Floor to Area Ratios (FARs) and daylight plane shadowing standards, along with anything else such as an objective definition of detriment.

FINANCIAL IMPLICATIONS

Staff time.

ENVIRONMENTAL SUSTAINABILITY

Developing housing standards based on State law will help encourage the development of dense, transit-orientated development consistent with the goals of the Climate Action Plan.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Attachments:

1: Resolution

2: Resolution No. 68,308-N.S.: Establishing a Joint Subcommittee for the Implementation of State Housing Laws

RESOLUTION NO. ##,###-N.S.

EXTENSION OF THE JOINT SUBCOMMITTEE FOR THE IMPLEMENTATION OF  
STATE HOUSING LAWS

WHEREAS, the Joint Subcommittee for the Implementation of State Housing Laws (JSISHL) was established under Resolution No. 68,308-N.S. in January 2018; and

WHEREAS, the mission of JSISHL is to advise Council regarding issues around density bonuses, the Housing Accountability Act, inclusionary zoning, and permit streamlining to attain compliance with state law and take advantage of new opportunities for the development of affordable housing; and

WHEREAS, under its enabling legislation, JSISHL is tasked with completing its work by January 2020, reporting to Council by March 2020; and

WHEREAS, in order to fulfill its mission an extension is needed to provide adequate time to review recently passed State housing laws, and to provide adequate feedback on recommendations on units per acre density standards, Floor to Area Ratios (FARs) and daylight plane shadowing standards, along with anything else such as an objective definition of detriment.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby extends the timeline for the Joint Subcommittee for the Implementation of State Housing Laws to complete its work by July 2020, with the recommendations being brought to the City Council for consideration by the end of September 2020.

RESOLUTION NO. 68,308–N.S.

ESTABLISHING A JOINT SUBCOMMITTEE FOR THE IMPLEMENTATION OF STATE HOUSING LAWS

WHEREAS, Berkeley and California is facing an unprecedented housing affordability crisis; and

WHEREAS, rents for a two bedroom apartment in Berkeley have risen by 62.5% over the past five years; and

WHEREAS, Berkeley has so far achieved 48% of its housing allocation goals for 2014-2022 set out by the Association of Bay Area Governments, including 0% for extremely low income and moderate income; and

WHEREAS, many residential developments that have received zoning approval have yet to receive a building permit; and

WHEREAS, to address the rising crisis of housing in the State of California, 15 state bills were signed into law, with many dealing with how local municipalities respond to the development of new units; and

WHEREAS, issues around density bonuses, the Housing Accountability Act, inclusionary zoning, and permit streamlining need to be addressed by the City to be compliant with state law and to take advantage of new opportunities for the development of affordable housing; and

WHEREAS, because the Zoning Adjustments Board, Housing Advisory Commission, and Planning Commission have policy and quasi-judicial powers around housing, it would be beneficial for representatives of these commissions to meet jointly to develop policies for consideration by the Planning Commission and City Council; and

WHEREAS, community input is of vital importance in the review and implementation of these housing policies, and such input can be encouraged by regular publicly-noticed meetings of the Task Force; and

WHEREAS, the Joint Subcommittee should be comprised of nine voting members, with representatives from each commission.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley does hereby establish a Joint Subcommittee composed of members from the Zoning Adjustments Board, Housing Advisory Commission, and Planning Commission.

BE IT FURTHER RESOLVED that the Joint Subcommittee members shall be appointed from the membership of the Zoning Adjustments Board, Planning Commission or Housing Advisory Commission. Any Commissioner on any of those commissions is eligible for appointment to the Joint Subcommittee, as long as there is representation from each commission on the Joint Subcommittee.




BE IT FUTHER RESOLVED that the Joint Subcommittee shall complete its work by January 2020. Staff shall forward the Joint Subcommittee's recommendations to each parent Commission for comment, and bring the Joint Subcommittee's recommendations to the City Council for consideration by the end of March 2020, along with comments by any parent commissions.

The foregoing Resolution was adopted by the Berkeley City Council on January 23, 2018 by the following vote:

Ayes: Davila, Droste, Hahn, Harrison, Maio, Wengraf, Worthington and Arreguin.

Noes: None.

Absent: Bartlett.

  
\_\_\_\_\_  
Jesse Arreguin, Mayor

Attest:   
\_\_\_\_\_  
Mark Numalville, City Clerk





Rashi Kesarwani  
Councilmember District 1

CONSENT CALENDAR  
October 29, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Rashi Kesarwani, Kate Harrison, and Mayor Arreguin  
Subject: Budget Referral: Funding Illegal Dumping Component of “Clean & Livable Commons Initiative”

RECOMMENDATION

Refer to the November budget process consideration for providing \$200,000 to fund a key component of the “Clean & Livable Commons Initiative” unanimously passed by the City Council on February 28, 2019 to:

- Add lighting, cameras and signs at strategic locations in Berkeley to help deter illegal dumping; and
- Explore increasing the penalties for illegal dumping.

FISCAL IMPACTS OF RECOMMENDATION

Staff time and costs associated with acquiring and installing additional lighting, security cameras, and signage to discourage illegal dumping in strategic locations throughout Berkeley. We note that the security cameras would not have any facial recognition or biometric analytic capabilities.

CURRENT SITUATION AND ITS EFFECTS

Funding the illegal dumping component of the Clean & Livable Commons Initiative is a Strategic Plan Priority Project, advancing our goal to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

BACKGROUND

At a Special Council Meeting on February 28, 2019, the City Manager presented the “Clean and Livable Commons Initiative” to do the following:

- Add lighting, cameras and signs at strategic locations in Berkeley to help deter illegal dumping.
- Create a Livable Commons Action Team, made up of new staff in the Public Works, Parks, HHCS and City Manager’s office to increase the City’s ability to quickly address debris and other negative impacts related to homeless encampments.
- Add portable toilets and a second homeless locker program near encampments.

- Create a citizen awareness campaign to publicize these efforts and educate the public regarding illegal dumping and the best practices or ways to provide donations to homeless encampments.
- Explore increasing the penalties for illegal dumping.
- Refer to the City Manager and the budget process to expand the streets clean up employment program.
- Explore short-term pump-out options.

The City Manager's report noted that many of these initiatives could be funded through one-time Homeless Emergency Aid Program (HEAP) state funding as follows:

The remaining HEAP funds (\$1,099,894) would cover many of the actions outlined in this report:

- Partially fund two years of encampment servicing/trash removal: \$730,000;
- Fund two years (FY2020 and 2021) of portable toilet and handwashing stations at existing and expanded locations: \$270,000;
- Capital and services costs for one year (FY2020) of the pilot homeless locker program expansion to a second site: \$100,000.

However, because of rules related to the use of HEAP funds, it is unlikely that they would be available for the City Manager's proposed actions to discourage illegal dumping, which necessitates this budget referral for the November budget allocation process. This referral requests the purchase of security cameras without the use of any facial recognition or biometric analytic capabilities.

The City Manager's report from February 28, 2019 included the following additional information about illegal dumping:

In calendar year 2018, reports of illegal dumping represented 33% of all code enforcement complaints. Thousands of complaints related to illegal dumping are currently received through the City's 311 system and forwarded to the Public Works Department, which removes dumped items from the public right-of-way. If more than three complaints are received related to an accumulation of debris related to private property, the City's Code Enforcement Unit is contacted to begin enforcement procedures. Property owners are responsible for the condition of their property, up to and including the sidewalk, landscaping strip and/or street. If a vehicle has been videoed or photographed in the act of illegal dumping, city staff refer the incident to the Berkeley Police Department (BPD) for enforcement. BMC violations are penalized through the issuance of an administrative citation. Penalties are \$100 per violation/per day for a first citation, \$200 per violation/per day for a second violation (within 1 year of previous issuance) and \$500 per violation/per day for third and subsequent violations.

There is a spike in complaints related to illegal dumping in May and June, which corresponds to the period when UC Berkeley students move out of their apartments. City staff currently partner with staff at UC Berkeley as part of the Move Out program. Illegal dumping, especially of construction debris, is particularly problematic near the I-80 corridor in West Berkeley where there is easy on/off access and lighting is poor. City staff are currently working to encourage owners of private property to install additional lighting and share surveillance camera footage with the Berkeley Police Department.

The City can develop signs to warn potential violators about the consequences of illegal dumping. These signs could be placed throughout Berkeley at a nominal cost. The main hurdle to deterring illegal dumping, however, is enforcement.

Cameras could also be used as a deterrent and potential mechanism for tracking down illegal dumpers. The City's current surveillance policy was adopted on March 27, 2018 when City Council added BMC Chapter 2.99, the "Surveillance Technology Use and Community Safety Ordinance". This ordinance contains requirements regarding the procurement and use of Surveillance Technology that "carefully balances the City's interest in protecting public safety with its interest in protecting the privacy and civil rights of its community members". City Council could consider, as it did in San Pablo Park following a shooting last year, adding additional locations where cameras could be installed to act as a deterrent to illegal dumping. Reviewing camera footage to catch illegal dumping would require additional staff time not currently available in the Berkeley Police Department. The cost of additional cameras and staffing to review footage may be outweighed, however, by the success rate at prosecuting violators. The City may want to consider additional dedicated patrol resources or a sting operation to make a dent in illegal dumping.

The City Manager's report from February 28, 2019 included the following additional information about improved lighting:

As part of existing capital replacement cycle, the City of Berkeley could upgrade existing lights or add installation of new lights in areas where there are reports of illegal dumping. Public Work staff was recently deployed to four locations on 2nd Street near the Pathways STAIR center to take light level readings and determine what the impact of increased wattage would be in these areas. There are several streets in this area of West Berkeley where additional lighting may help thwart illegal dumping. Additional lighting would require a range of actions, including evaluating whether additional low-voltage wiring would need to be installed in some locations. The cost of this work, until further defined, is unknown.

#### ENVIRONMENTAL SUSTAINABILITY

Reducing the amount of bulky debris that litters our public spaces and encouraging proper disposal of bulky waste at the transfer station promotes our goal to be an environmentally sustainable community.

RATIONALE FOR RECOMMENDATION

The City Council unanimously voted to provide direction to the City Manager in February 2019 to

CONTACT PERSON

Rashi Kesarwani, City Council Member District 1  
510-981-7110

Attachment: Clean and Livable Commons Initiative



Office of the City Manager

## ACTION CALENDAR

February 28, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Paul Buddenhagen, Deputy City Manager  
 Subject: Clean and Livable Commons Initiative

### RECOMMENDATION

Provide guidance on actions the City Manager should take to enhance livability in Berkeley.

### SUMMARY

The City of Berkeley has, over the past few decades, invested significant resources for a city its size in homeless services designed to help people obtain permanent housing. Despite many homeless people being housed through these efforts, there are still a lot of people living unsheltered in Berkeley. A variety of community impacts have been attributed to the large number of unsheltered Berkeley residents. These impacts include accumulations of living structures and other items which sometimes spill into the public right-of-way and large amounts of garbage and human waste, creating health and safety problems.

The City Manager proposes the following actions to address this issue:

- Add lighting, cameras and signs at strategic locations in Berkeley to help deter illegal dumping;
- Create a Livable Commons Action Team, made up of new staff in the Public Works, Parks, HHCS and City Manager's office to increase the City's ability to quickly address debris and other negative impacts related to homeless encampments;
- Add portable toilets and a second homeless locker program near encampments; and
- Create a citizen awareness campaign to publicize these efforts and educate the public regarding illegal dumping and the best practices or ways to provide donations to homeless encampments.

City staff recommend that Council utilize a significant portion of new Homeless Emergency Aid Program (HEAP) funding to fund the actions listed above. HEAP is a flexible but time-limited and one-time source of funding from the State of California to address the homelessness crisis. Additional resources will be necessary, however, to create a more proactive response to the crisis. Berkeley voters passed Measure P in November 2018 which is expected to generate \$6 to \$8 million annually in revenues for homeless related services. A portion of these resources will be needed to sustain any of the efforts listed above.

#### FISCAL IMPACTS OF RECOMMENDATION

City staff will be bringing an item for Council consideration on the March 12, 2019 agenda, requesting approval of a contract with the Alameda County Housing & Community Development Department for \$4,032,711 in State HEAP funds. The item proposes funding key city priorities and minimizes risk of underspending by utilizing \$2,832,000 for the Pathways and Dorothy Day House shelters and \$100,818 for administration (2.5% - the maximum allowable). The remaining HEAP funds (\$1,099,894) would cover many of the actions outlined in this report:

- Partially fund two years of encampment servicing/trash removal: \$730,000;
- Fund two years (FY2020 and 2021) of portable toilet and handwashing stations at existing and expanded locations: \$270,000;
- Capital and services costs for one year (FY2020) of the pilot homeless locker program expansion to a second site: \$100,000.

Because HEAP funds must be spent by June 2021, additional resources will be required to continue these expenditures beyond June 2021 and fund other aspects of the recommendations included in this report.

#### CURRENT SITUATION AND ITS EFFECTS

The prevalence of unhoused people living on streets, sidewalks, parks and other open space has been increasing all over the Bay Area for many years. Despite the fact that many jurisdictions have made significant progress towards housing people, the number of people becoming homeless and living outside of shelters is higher than the rate at which communities are able to house them. There are significant community impacts related to large numbers of unhoused people who lack sufficient infrastructure to be able to survive unsheltered without also sometimes creating impacts to the surrounding community. These impacts are increasingly being felt in Berkeley.

The latest reliable data related to the number of homeless people living in Berkeley is from the 2017 Homeless Point-In-Time Count, undertaken by Alameda County with the help of local Berkeley volunteers (a new count was done in January 2019, but data will not be ready for several months). In January 2017, approximately 664 people were living unsheltered on Berkeley streets, sidewalks, in cars or RVs, and encampments.



This far exceeds to number of shelter beds – currently 286 -- that are available on any given night. As reported in a prior council report, over the course of a year, nearly 2000 people experience homelessness of some duration in Berkeley. This number has been steadily growing at an average rate of 10% every 2 years. In December 2018, Berkeley Police staff counted 193 RVs, campers, converted busses, and vehicles that have been set up and/or designed for human habitation within the City's borders.

The City of Berkeley has over the past few decades invested significant resources for a city its size in homeless services designed to help people obtain permanent housing. In addition, in just the past three years, the City more than doubled homeless resources by funding:

1. The Pathways STAIR center, a 45-bed, 24/7, service-rich shelter housed in a series of modular trailer buildings on 2nd Street between Cedar and Virginia Streets in West Berkeley has successfully housed 53 people<sup>1</sup> since it opened in late June 2018. The STAIR center also includes two outreach workers to specifically offer shelter and other services to people living in encampments;
2. Expanded homeless outreach, creating a four-person HOTT team using a combination of state Mental Health Services Act funding and City General Fund;
3. Expanded shelter for the street homeless population by allocating \$400,000 to and contracting with Dorothy Day House to open a shelter for 52 individuals in the basement of 1931 Center Street;
4. A Coordinated Entry System which focuses resources on people who have been on the streets for one year or more<sup>2</sup>;

In addition to investing more local funds in homeless efforts, the Berkeley Housing Authority applied for and received additional Section 8 housing vouchers, 30 of which will be dedicated to homeless people prioritized through the Coordinated Entry System. The City was also recently awarded \$1.5 million in federal Department of Housing and Urban Development funding for an expansion of an existing Shelter Plus Care program, which will provide supportive services and permanent housing vouchers for approximately 45 people beginning in January 2020.

Despite these efforts, there continue to be a significant number of people living on the streets and the impact to the surrounding community is high. The City Manager is committed to having a cleaner and more humane city that is enjoyable for everyone.

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<sup>1</sup> For more details, see report and presentation from the October 19, 2018 Council worksession, located here: [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/10\\_Oct/City\\_Council\\_10-09-2018\\_-\\_Special\\_Meeting\\_Agenda.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/10_Oct/City_Council_10-09-2018_-_Special_Meeting_Agenda.aspx)

<sup>2</sup> For more information on the City's Coordinated Entry System, see [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/03\\_Mar/City\\_Council\\_03-28-2017\\_-\\_Special\\_Meeting\\_Agenda.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/03_Mar/City_Council_03-28-2017_-_Special_Meeting_Agenda.aspx)

Therefore we have identified a variety of efforts to help mitigate the negative impacts that are often associated with encampments and have several recommendations for City Council to consider.

### **1. Illegal Dumping**

In calendar year 2018, reports of illegal dumping represented 33% of all code enforcement complaints. Thousands of complaints related to illegal dumping are currently received through the City's 311 system and forwarded to the Public Works Department, which removes dumped items from the public right-of-way. If more than three complaints are received related to an accumulation of debris related to private property, the City's Code Enforcement Unit is contacted to begin enforcement procedures. Property owners are responsible for the condition of their property, up to and including the sidewalk, landscaping strip and/or street. If a vehicle has been videoed or photographed in the act of illegal dumping, city staff refer the incident to the Berkeley Police Department (BPD) for enforcement. BMC violations are penalized through the issuance of an administrative citation. Penalties are \$100 per violation/per day for a first citation, \$200 per violation/per day for a second violation (within 1 year of previous issuance) and \$500 per violation/per day for third and subsequent violations.

There is a spike in complaints related to illegal dumping in May and June, which corresponds to the period when UC Berkeley students move out of their apartments. City staff currently partner with staff at UC Berkeley as part of the Move Out program<sup>3</sup>. Illegal dumping, especially of construction debris, is particularly problematic near the I-80 corridor in West Berkeley where there is easy on/off access and lighting is poor. City staff are currently working to encourage owners of private property to install additional lighting and share surveillance camera footage with the Berkeley Police Department.

The City can develop signs to warn potential violators about the consequences of illegal dumping. These signs could be placed throughout Berkeley at a nominal cost. The main hurdle to deterring illegal dumping, however, is enforcement.

Cameras could also be used as a deterrent and potential mechanism for tracking down illegal dumpers. The City's current surveillance policy was adopted on March 27, 2018 when City Council added BMC Chapter 2.99, the "Surveillance Technology Use and Community Safety Ordinance". This ordinance contains requirements regarding the procurement and use of Surveillance Technology that "carefully balances the City's interest in protecting public safety with its interest in protecting the privacy and civil rights of its community members". City Council could consider, as it did in San Pablo Park following a shooting last year, adding additional locations where cameras could be installed to act as a deterrent to illegal dumping. Reviewing camera footage to catch

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<sup>3</sup> More information on this program can be found here:  
[https://www.cityofberkeley.info/Clerk/City\\_Council/2018/09\\_Sep/Documents/2018-09-25\\_Item\\_36\\_Referral\\_Response\\_Move\\_Out\\_Initiatives.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/09_Sep/Documents/2018-09-25_Item_36_Referral_Response_Move_Out_Initiatives.aspx)

illegal dumping would require additional staff time not currently available in the Berkeley Police Department. The cost of additional cameras and staffing to review footage may be outweighed, however, by the success rate at prosecuting violators. The City may want to consider additional dedicated patrol resources or a sting operation to make a dent in illegal dumping.

## **2. Improved Lighting**

As part of existing capital replacement cycle, the City of Berkeley could upgrade existing lights or add installation of new lights in areas where there are reports of illegal dumping. Public Work staff was recently deployed to four locations on 2<sup>nd</sup> Street near the Pathways STAIR center to take light level readings and determine what the impact of increased wattage would be in these areas. There are several streets in this area of West Berkeley where additional lighting may help thwart illegal dumping. Additional lighting would require a range of actions, including evaluating whether additional low-voltage wiring would need to be installed in some locations. The cost of this work, until further defined, is unknown.

## **3. Livable Commons Action Team**

When the City takes steps to enforce laws regarding camping in the public right-of-way, it is driven by concerns about a) accessibility issues related to path of travel on sidewalks and other access points, b) health and safety (including the risks of camping on street medians on busy arterial streets), c) persistent complaints from neighbors and businesses about illegal activities, or d) special events requiring that an area be temporarily made available for a specific purpose. In 2018 City staff picked up garbage at and required that 11 encampments be disbanded. From July to December 2018, 95 tons (190,000 pounds) of debris were collected.

City of Berkeley Public Works Department and Parks, Recreation and Waterfront departments spend significant amounts of time and money on intermittent homeless debris removal throughout the City. This effort displaces time and funding for maintenance of our existing infrastructure. City Council authorized \$400,000 in 2018 to fund garbage removal related to encampments. Additional resources will be needed, however, to increase the rate at which negative conditions near encampments can be abated. We are recommending \$1,000,000 per year, with \$370,000 of this coming from HEAP in FY 20 and 21, and the remaining portion from Measure P., for a Livable Commons Action Team. This funds:

- 1 FTE staff from Code Enforcement, 2 FTE staff from Public Works, and 1 FTE HHCS outreach staff to provide full-time, year-round encampment response;
- Costs for regular trash and debris removal service at encampments, storage, safe disposal, and protective equipment;

- Costs to cover contract(s) with outside agencies to assist with additional debris removal at encampments or encampment-impacted locations.

#### **4. Facility Improvements**

Staff have been working to implement Councilmember Davila and Droste's effort to bring a portable shower service, to Berkeley for a 6- to 8-week pilot. The mobile shower entity Lava Mae will operate two days per week for 6-8 weeks at a location or locations to be determined. Showers will be operational from 9 a.m. to 2:30 p.m. The City currently funds two shower programs, one at Willard School (2701 Telegraph) and one at the MASC (1931 Center Street basement). The Willard Shower Program is open Monday through Friday from 7:30 – 8:30 p.m. and Saturdays and Sundays from 9 – 10 a.m. The MASC shower program is open Monday through Sunday from 8 a.m. to 11:30 a.m. It is expected that the Lava Mae pilot will improve hygiene by bringing it closer to areas where there are larger numbers of people camping. Should the Lava Mae pilot prove successful, an extension may be possible depending on Lava Mae's continued capacity.

City staff expect to continue the provision of additional portable toilets and handwashing stations at various location throughout the City. This is an annual cost of approximately \$65,000. In addition, the City could add five additional portable toilets at \$6,500 per year for a total additional cost of \$32,500. This grand total amount (\$270,000) is expected to be covered by HEAP funds until June 30, 2021. Funding for this effort thereafter would need to be borne by the General Fund.

The City is expecting to continue piloting a homeless locker program, expanding the existing program, located in the basement of 1931 Center Street providing 60 lockers, to a second site for a one-time cost of \$50,000 and annual cost of \$50,000. The provision of lockers enables homeless residents a safe and secure space to store belongings. The lockers are integral to keeping city sidewalks, parks, and other public spaces more free of objects.

#### **5. Citizen Awareness**

City staff involved in encampment clean ups report that sometimes well-meaning residents donate their unwanted household items and food to encampment dwellers. This has the unintended impact of contributing to the overflow of items in encampments and uneaten food which lures vermin, exacerbating health and safety issues. The City Manager's office will develop a "good neighbor" campaign to publicize the efforts listed above and to urge Berkeley citizens to help mitigate environmental impacts by not leaving unwanted items out for people living in encampments. Staff will present the community with other ways to better support our unhoused community members, such as donating to nonprofits.

### BACKGROUND

The City of Berkeley currently directs millions of dollars in federal, state and local funds into a comprehensive constellation of services to help homeless people lead better lives. This includes direct services such as transitional and permanent housing, shelter, meals, mental health care and indirect services such as parks clean-up and 311 calls to name just a few. These programs are operated by City staff, nonprofit agencies, faith institutions, businesses and others, often in partnership. Despite the coordinated efforts and funds put towards reducing homelessness and helping people experiencing homelessness, there continue to be significant numbers of people living on the streets of Berkeley. This fact belies the significant efforts made to serve them.

In FY2019 the City allocated \$3.8 million across 16 agencies to address homelessness. These funds support 286 emergency shelter beds, 3 daytime drop-in centers, a shower program, three meal programs, 38 transitional housing beds, and other services including drug and alcohol treatment, domestic violence services, money management, benefits advocacy, employment services, and county-wide homeless coordination. The City also administers over \$4.5 million in federal HUD funding for the Shelter Plus Care program, keeping approximately 260 formerly homeless people in housing.

Despite these efforts, on any given night in Berkeley, there are nearly 1,000 people experiencing homelessness and, for the past several years, homelessness has nonetheless steadily increased. The City of Berkeley has declared a homeless state of emergency in January 2016 and again in October 2017. The City of Berkeley has also approved sending a letter to Governor Newsom urging a statewide declaration of homeless emergency.

### ENVIRONMENTAL SUSTAINABILITY

Adopting this resolution will add \$729,847 to the budget for encampment trash and debris removal, which will positively impact the environment by removing many tons of debris, including hazardous and human waste, from encampments. This reduces the likelihood such waste will wind up in the city's creeks, wetlands, or other environmentally sensitive areas.

### RATIONALE FOR RECOMMENDATION

The obvious solution to homelessness is affordable housing. While we continue our efforts to create more housing opportunities in Berkeley, the City needs to invest more resources in improving conditions on our streets and sidewalks. To that end, we recommend that Council set aside additional resources for these recommended service augmentations described above.

### ALTERNATIVE ACTIONS CONSIDERED

Redirect staff from providing other city services to focus on debris abatement and a more livable commons.

CONTACT PERSON

Kristen Lee, Temporary Assistant to the City Manager, City Manager's Office, 981-5427



Rashi Kesarwani  
Councilmember District 1

CONSENT CALENDAR  
October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmembers Rashi Kesarwani, Lori Droste, Susan Wengraf,  
and Sophie Hahn

Subject: Referral to the Civic Arts Commission to develop a grant program available for  
arts and cultural organizations to support retaining and improving creative spaces  
for artists

RECOMMENDATION

Referral to the Civic Arts Commission to prioritize within their current Work Plan creating a process for awarding competitive grants to Berkeley-based arts and cultural organizations that will help support their ability to stay in Berkeley.

FINANCIAL IMPLICATIONS

Staff time to develop a grant program.

CURRENT SITUATION AND ITS EFFECTS

A stated priority within the City's current strategic plan is providing state-of-the-art amenities such as those our arts and cultural institutions make available. More than 150 Berkeley arts and cultural institutions enrich our community and provide a significant economic engine that generates millions of dollars and employs thousands of workers. However, rising real estate costs and lack of affordable housing, office, and studio space of any kind pose a significant challenge to the ability of these institutions to remain in Berkeley.<sup>1</sup>

This referral to the Civic Arts Commission asks that they prioritize within their current work plan the development of a competitive grant program framework through which any arts and cultural institution would be able to apply for City funds to assist in staying in Berkeley, such as through capital improvements, the acquisition of a permanent location, or temporary rental assistance.

According to The City of Berkeley Arts and Culture Plan, 2018-2027 Update, the first of the five strategic goals towards actualizing our City's vision for the arts is to "support the long-term sustainability of the arts and culture sector by expanding the availability of affordable housing and spaces for both artists and arts organizations."<sup>2</sup> In an effort to

<sup>1</sup> See April 25, 2019 [Berkeleyside](#) article: "Why new office space in Berkeley is so hard to find."

<sup>2</sup> City of Berkeley Arts and Culture Plan, 2018-2027 Update, page iii

ensure equitable distribution of City funds for these purposes, this referral requests the creation of a competitive grant application and fair selection process that would be available to any Berkeley art and cultural institution.

In providing a framework for a grant application and selection process for arts and cultural organizations, the Civic Arts Commission may consider the following:

- Recommending an annual award amount (or range) available to each institution;
- Recommending funding stream(s) to fund the grant from existing or new sources and a total amount to make available;
- Establishing a fair and transparent process for reviewing grant applications, including determining the reviewing body (i.e., Office of Economic Development staff or Civic Arts Commission);
- How the funds are to be used.

#### BACKGROUND

On January 26, 2016, the Berkeley City Council approved capital improvement grants totaling \$250,000 to the U.C. Theatre (\$150,000) and Kala Art Institute (\$100,000) to assist with critically needed facilities upgrades. Without these funds, these anchor art institutions were at risk of becoming non-operational. On the October 15, 2019 City Council agenda, the City Council considered a grant totaling \$150,000 to the Capoeira Arts Foundation (CAF) to assist this globally recognized arts and cultural institution in purchasing their current building on San Pablo Avenue in Berkeley. Without this financial support to assist in purchasing the building, Capoeira would likely be forced to leave Berkeley due to a prohibitive rent increase once their lease expires at the end of this year.

Many arts institutions struggle to remain in Berkeley due to the high cost of living and housing. Given that the City has already supported U.C. Theatre and Kala Art Institute, and Capoeira Arts Foundation is seeking assistance, it is apparent that an open and transparent process that enables any Berkeley-based arts and cultural organization to apply for funding would be an equitable approach to handling this challenge. Smaller and less established arts institutions often do not have the capacity to raise the necessary funds for capital improvements, site acquisition, or temporary rental assistance.

#### ENVIRONMENTAL SUSTAINABILITY

To the extent that arts and cultural organizations can acquire their buildings and develop on-site housing, this item could reduce vehicle miles traveled.

#### CONTACT PERSON

Councilmember Rashi Kesarwani, Council District 1  
510-981-7110





Rashi Kesarwani  
Councilmember District 1

CONSENT CALENDAR  
October 29, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmember Rashi Kesarwani  
Subject: Information on the City's Existing Code Enforcement Practices for Residential Properties

### RECOMMENDATION

Request the City Manager provide a brief report or presentation on the City's code enforcement practices for residential properties for the purposes of educating the City Council and the public on current practice. The requested information may include:

- Reporting on the various ways in which code enforcement issues have been brought to the attention of the City over the last five years (i.e., neighbor complaint, 911 call to the property, etc.)
- How various code enforcement issues at residential properties are currently handled (i.e., which City departments and which type of staff are involved, what they do, etc.)
- Timeframe and mechanisms for achieving code compliance at residential properties
- Any existing assistance programs available to support property owners found to have code violations, such as financial assistance, mental health services, technical advice, etc.
- Specific learnings/change in City practices resulting from the Leonard Powell receivership case
- Other information deemed relevant and appropriate to understand the City's current code enforcement practices for resident properties

### FISCAL IMPACTS OF RECOMMENDATION

Staff time.

### BACKGROUND

The proposed recommendation is made in partial response to a June 11, 2019 referral from the City Council to the Health, Life Enrichment, Equity & Community Committee on recommendations from the Housing Advisory Commission and Peace and Justice Commission related to the Leonard Powell case. This portion of the referral response was discussed by the Health, Life Enrichment, Equity & Community Committee and is submitted in order for City staff to begin preparing the requested report on the City's existing code enforcement practices.

The referral to the Committee was in response to the receivership case of Mr. Leonard Powell, who in 2014 was ordered by the City to address the health and safety violations discovered on his property (1911 Harmon St.).<sup>1</sup> Despite some no-interest loans and fee waivers offered by the City and the assistance of Habitat for Humanity, over the ensuing years the costs for repairs, inspections, receivership and relocation fees spiraled to close to \$800,000. With assistance from local community groups and after some court and City involvement, Mr. Powell was able to return home in June 2019. This recommendation seeks to clarify City code enforcement practices and procedures.

#### RATIONALE FOR RECOMMENDATION

This request seeks to clarify for both the City Council and the general public existing code enforcement practices for residential properties.

#### CONTACT PERSON

Rashi Kesarwani, Council Member, District 1  
510-981-7110

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<sup>1</sup> See [March 5, 2019](#) Berkeleyside article "Berkeley Homeowner Caught in Costly Code Violation Sprial"; and [June 10, 2019](#) Berkeleyside article "Elderly Homeowner, Forced to Leave Home Because of Code Violations, Moves Back In."



Cheryl Davila  
Councilmember  
District 2

CONSENT CALENDAR  
October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmembers Cheryl Davila and Ben Bartlett

Subject: Consider The Homeless Films, Food & Discussion Event on November 5, 2019:  
Relinquishment of Council Office Budget Funds to General Fund and Grant of  
Such Funds

#### RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Cheryl Davila, to support the Consider The Homeless “Films, Food & Discussion” Event on November 5, 2019, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila, the Mayor and any other Councilmembers who would like to contribute.

#### BACKGROUND

Our office is proposing that the City Council make a minimum grant of \$250 to support the Consider The Homeless’s “Films, Food & Discussion” event on November 5, 2019. This engaging event highlights some of the “Unhoused” population residing in Berkeley with a discussion of the problems facing those on the streets as well as their impact on the housed residents that have been their neighbors. Every Face. Every Tent Has A Story! Consider The Homeless is a 501(c) 3 tax exempt organization. Federal Tax ID #81-0707909.

#### FISCAL IMPACTS OF RECOMMENDATION

No General Fund impact. \$250 is available from Councilmember Cheryl Davila's Council Office Budget discretionary account (011-11-102-000-0000-000-411).

#### ENVIRONMENTAL SUSTAINABILITY

The protection of life under all circumstances is itself an act of environmental sustainability.

#### CONTACT PERSON

Cheryl Davila  
Councilmember, District 2  
510.981.7120  
[cdavila@cityofberkeley.info](mailto:cdavila@cityofberkeley.info)

#### ATTACHMENT:

1. Flyer
2. Resolution



*Consider The Homeless!*  
*Films, Food & Discussion*

**2019 FUNDRAISER**  
**Tuesday, Nov. 5<sup>th</sup>**

***Every Face... Every Tent Has A Story***

Tuesday, November 5, 2019 at 5:30 PM – 10:30 PM  
**Neyborly (at Poet's Corner)**  
2043 San Pablo Ave., Berkeley, California 94702

RESOLUTION NO. ##,###-N.S.

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR A GRANT TO PROVIDE PUBLIC SERVICES FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, Councilmember Cheryl Davila has surplus funds in her office expenditure account (budget code 011-11-102-000-0000-000-411); and

WHEREAS, a California non-profit tax-exempt corporation Consider The Homeless, a community-serving non-profit is seeking donations of support in the amount of \$250 for the fundraiser, "Films, Food & Discussion" Event on November 5, 2019; and

WHEREAS, Consider The Homeless and volunteers serve delicious, nutritious homemade soup with fresh bread and distributes survival supplies that are donated, such as clothing, socks, blankets, shoes, etc. CTH visits the homeless communities throughout our fair City on Thursday and Sunday nights to bring free hardie soup and bread that brings warmth and leaves one's belly full and satisfied; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget up to \$250 per Council office shall be granted to Consider The Homeless for their fundraiser at Neyborly's Poet Corner, 5:30PM-10:30PM, "Films, Food & Discussion" event on November 5, 2019.





Cheryl Davila  
Councilmember  
District 2

CONSENT CALENDAR  
October 29, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Cheryl Davila and Kate Harrison  
Subject: Letter in Support of HR 1595: Secure And Fair Enforcement Banking Act of 2019

#### RECOMMENDATION

Send a Letter to Congresswoman Barbara Lee in Support of HR 1595: Secure And Fair Enforcement Banking Act of 2019, and direct the city clerk or designee to send a letter to our state representatives.

#### BACKGROUND

Since the passage of Proposition 64 (Adult Use of Marijuana Act) in November 2016, California represents about a third of the North American cannabis market with the state taking in more than \$345 million in revenue last year. Proposition 64 was designed to create new revenue for the state. However, these efforts are being compromised by cannabis businesses' inability to engage in traditional banking services.

At the April 23, 2019 City Council Meeting, the Council authorize sending a letter of support for AB-953 "Cannabis: state and local taxes: payment by digital asset" to Assemblymember Phil Ting.

Most legal cannabis-related businesses across the nation do not have a bank account, meaning this entire industry is run almost entirely in cash, creating profound implications for the industry's sustainability, safety, and ability to pay taxes.

HR 1595 would prohibit United States banking regulators from penalizing financial institutions for providing banking services to a legitimate cannabis business. Specifically, the bill prohibits federal banking regulators from:

- Terminating or limiting deposit or share insurance of a financial institution solely because the financial institution provides services to a legitimate marijuana-related business;
- Prohibits or otherwise discourages a financial institution from offering services to such a business;
- Recommending, incentivizing, or encouraging a depository institution not to offer financial services to an account holder solely because the account holder is affiliated with such a business;
- Taking any adverse or corrective supervisory action on a loan made to a person solely because the person either owns such a business or owns real estate or equipment leased or sold to such a business;

- Penalizing a financial institution for processing or collecting payments for such a business.

The intent of HR. 1595 is to increase safety by ensuring cannabis related businesses access financial services.

FINANCIAL IMPACTS OF RECOMMENDATION

None.

ENVIRONMENTAL SUSTAINABILITY

None.

CONTACT PERSON

Cheryl Davila  
Councilmember, District 2  
510.981.7120  
[cdavila@cityofberkeley.info](mailto:cdavila@cityofberkeley.info)

ATTACHMENTS:

1. Letter of Support
2. Link to HR 1595 Bill Text:  
<https://www.congress.gov/bill/116th-congress/house-bill/1595/text>

Congresswoman Barbara Lee  
2470 Rayburn House Office Building  
Washington, DC 20515

To: Congresswoman Barbara Lee and Congressman

Date: October 29, 2019

Re: Letter in Support of HR 1595: Secure And Fair Enforcement Banking Act of 2019



Dear Congresswoman Lee:

Since the passage of Proposition 64 - the Adult Usage Marijuana Act. Today, California represents about a third of the North American cannabis market with the state taking in more than \$345 million in taxes last year alone. Proposition 64 was designed to create new revenue for the state and address public safety concerns by driving out the illegal market. However, these efforts are being compromised by cannabis businesses' inability to engage in traditional banking services.

At the April 23, 2019, City Council Meeting, the Council authorize sending a letter of support for AB-953 "Cannabis: state and local taxes: payment by digital asset" to Assemblymember Phil Ting.

Most legal cannabis-related businesses across the nation do not have a bank account, meaning this entire industry is run almost entirely in cash, creating profound implications for the industry's sustainability, safety, and ability to pay taxes.

HR 1595 proposes to prohibit United States banking regulators from penalizing a financial institution for providing banking services to a legitimate cannabis business. Specifically, the bill prohibits federal banking regulators from:

- Terminating or limiting deposit or share insurance of a financial institution solely because the financial institution provides services to a legitimate marijuana-related business;
- Prohibits or otherwise discourages a financial institution from offering services to such a business;
- Recommending, incentivizing, or encouraging a depository institution not to offer financial services to an account holder solely because the account holder is affiliated with such a business;
- Taking any adverse or corrective supervisory action on a loan made to a person solely because the person either owns such a business or owns real estate or equipment leased or sold to such a business;
- Penalizing a financial institution for processing or collecting payments for such a business.

The intent of HR. 1595 is to increase safety by ensuring cannabis related businesses access financial services.

Best regards,

The Berkeley City Council





Kate Harrison  
Councilmember District 4

CONSENT CALENDAR  
October 29, 2019

To: Honorable Mayor and Members of the City Council  
 From: Councilmembers Harrison and Hahn  
 Subject: Budget Referral: Allocate \$27,000 from the General Fund to Secure Potential Matching State Certified Local Government Landmarks Preservation Grants

RECOMMENDATION

Refer to the FY 2021 November Budget Process to allocate \$27,000 from the General Fund to secure potential matching state Certified Local Government landmarks preservation grant.

BACKGROUND

Each year the State of California Office of Historic Preservation (SHPO) allocates Federal funds to local governments through its Certified Local Government (CLG) Grant program.<sup>1</sup> The program is funded by the federal Historic Preservation Fund Grants Program. Berkeley is an eligible CLG city.

Grant proposals may include a historic study or documentation of a neighborhood, or a specific historic building project, or other types of preservation activities. The CLG grants are often used to hire expert consultants to conduct studies or prepare reports that can support local preservation work by the City.

Although the grants are competitive, not every city or county in California has a historic preservation ordinance, a requirement which limits the pool of applicants. According to current Berkeley Landmarks Preservation (LPC) commissioners, certain preference is also given to cities such as Berkeley that have not applied in recent years.

The City last received a CLG grant for the 2014/2015 fiscal year which was used to successfully prepare a Historic Context Statement for Downtown Berkeley. For the past two years the Berkeley LPC has unanimously supported applying for a grant, but without matching funds identified well in advance of the submission deadline, it proved impossible to prepare a successful application.

The details of the 2020/21 grant cycle have not yet been announced, but for several years the SHPO has allocated up to \$40,000 per grant, and required a local match of

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<sup>1</sup> 2019-2020 CLG Grant Program, California Department of Parks and Recreation,  
[http://ohp.parks.ca.gov/?page\\_id=24493](http://ohp.parks.ca.gov/?page_id=24493).

40%, or approximately \$27,000. With a state grant, the City would have a total budget of \$67,000. Grant applications are typically due by May 1, and funds are awarded in the summer and are made available for disbursement by October 1.

Possible themes for a grant application which would be relevant to Berkeley, including for city-owned buildings, include:

- Design Guidelines for Historic Properties
- Historic Structure Reports / Preservation Plans
- Historic Context Studies and Surveys
- National Register of Historic Places District applications
- Archaeological Preservation Plans / Ordinances
- Preservation Education and Outreach Programs

The LPC already has a subcommittee established to generate grant proposals and welcomes suggestions from Councilmembers with regard to geographical or topical areas of focus. The LPC plans to adopt specific grant proposals in early 2020.

Council would vote on the LPC grant proposal in spring 2020, and therefore would have discretion as to whether the \$27,000 should be assigned to the grant application or returned to the General Fund. By allocating matching funds in November, the Council is not pre-approving a particular grant. A specific grant proposal would come back to the Council through the normal grant approval process. This budget referral merely provides the LPC with the certainty that funds are available should Council approve a grant approval next year.

#### FINANCIAL IMPLICATIONS

Council may decide in 2020 to assign \$27,000 from the General Fund to secure potential matching State Certified Local Government Landmarks Preservation grant.

#### ENVIRONMENTAL SUSTAINABILITY

Historic studies and surveys can help protect existing buildings, including civic buildings, which are associated with substantial embodied carbon.

#### CONTACT PERSON

Councilmember Kate Harrison, Council District 4, 510-981-7140



Kate Harrison  
Councilmember District 4

CONSENT CALENDAR  
October 29, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Harrison, Wengraf, Hahn, and Bartlett  
Subject: Amending Chapter 19.34 of the Berkeley Municipal Code to Expand Automatic Gas Shut-Off Valve Requirements in Multifamily, Condominium and Commercial Buildings Undergoing Renovations and to All Existing Buildings Prior to Execution of a Contract for Sale or Close of Escrow

RECOMMENDATION

Refer to the Disaster and Fire Safety Commission to consider an ordinance amending Berkeley Municipal Code (BMC) 19.34.040 to expand requirements for automatic natural gas shut-off valves or excess flow valves in multifamily, condominium and commercial buildings undergoing renovations and in all existing buildings prior to execution of a contract for sale or close of escrow. Ask the Commission to consider other triggers as appropriate.

POLICY COMMITTEE RECOMMENDATION

On October 3, 2019, the Facilities, Infrastructure, Technology, Environment & Sustainability Committee adopted the following action: M/S/C (Harrison/Robinson) to send the item with a Positive Qualified Recommendation back to the City Council with the following amendments.

Amend the recommendation revised to read as follows:

1. Refer to the Disaster and Fire Safety Commission to consider an ordinance amending Berkeley Municipal Code (BMC) 19.34.040 to expand requirements for automatic natural gas shut-off valves or excess flow valves in multifamily, condominium and commercial buildings undergoing renovations and in all existing buildings prior to execution of a contract for sale or close of escrow and to ask the Commission to consider other triggers as appropriate.

Amend the Financial Implications to read:

Staff savings realized from responders not having to shut off gas in an emergency.

Vote: All Ayes.

## BACKGROUND

The California Building Standards Code, or Title 24 of the California Code of Regulations, specifies the standards for buildings and other structures in California. Title 24 is intended to protect public health, safety, and general welfare building occupants, and is updated at the state level and adopted by local jurisdictions every three years. Municipalities are permitted to make local amendments to the Building Standards Code<sup>1</sup> as deemed necessary for general welfare, as long as they are submitted to the California Building Standards Commission with the necessary findings. The ideal time to update local buildings codes is before the next code cycle. Berkeley will adopt the 2019 code on January 1, 2020.

Natural gas in buildings poses significant risks to health and safety. A recent ordinance adding Chapter 12.80 to the Berkeley Municipal Code phases out natural gas in new buildings.<sup>2</sup> This will make Berkeley's new building stock safer and greener over time, but there is an outstanding need to prevent seismic and other disasters in existing buildings.

Gas shut-off valves are a component of a plumbing system capable of preventing the flow within a gas piping system. Shut-off valves allow for a resident to stop the flow of gas in their homes in case of an emergency, such as an earthquake or a gas leak.

All existing buildings, if they have natural gas, should have a shut-off valve of some kind. However, manual shut-off valves require timely attention during a seismic event, physical access and exertion, and mechanical knowledge to operate. In case of a natural disaster, relying purely on manual shut-off valves can be dangerous. For example, following the 2010 San Bruno explosion, Pacific Gas & Electric officials testified before the National Transportation Safety Board that "gas feeding the flames could have been shut off an hour earlier if PG&E had automatic or remotely controlled valves on the pipeline that exploded."<sup>3</sup> Since the San Bruno explosion, gas companies across California have urged a fast transfer to automatic shut-off valves.

Currently, BMC 19.34.040 requires automatic gas shut-off valves in all new construction or existing buildings that undergo repair or alteration exceeding \$50,000 consistent with sewer lateral requirements. However, it makes blanket exceptions for buildings with individually metered residential units when the building contains five or more residential units, unless the units are condominiums, putting renters at risk of physical harm.

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<sup>1</sup> "Local Amendments to Building Standards—Ordinances," California Building Standards Commission, <https://www.dgs.ca.gov/BSC/Codes/Local-Jurisdictions-Code-Ordinances>.

<sup>2</sup> Susie Cagle, "Berkeley became first US city to ban natural gas. Here's what that may mean for the future," The Guardian, <https://www.theguardian.com/environment/2019/jul/23/berkeley-natural-gas-ban-environment>.

<sup>3</sup> Paul Rogers, "PG&E officials grilled about automatic shut of valves," Mercury News, March 1, 2011, <https://www.mercurynews.com/2011/03/01/pge-officials-grilled-about-automatic-shut-off-valves-3/>.

In recommending this exception for multi-unit buildings in 2010, City staff intended to reduce the cost burden to property owners. For example, City staff were concerned that the ordinance would require very large multifamily buildings to install shut-off valves in every unit in a 50 unit building when completing a \$50,000 renovation.<sup>4</sup>

While financial costs are important, there will also likely be significant costs to human life and property resulting from natural gas infrastructure during seismic events that far outweigh the costs to property owners for installing shut-off valves. A more-tailored and comprehensive approach was adopted by the City of Los Angeles's 1997 policy in the wake of the Northridge Earthquake, requiring valves in all multifamily, condominium and commercial units when a permit for any addition, alteration or repair valued in excess of \$10,000 is taken out affecting the entire building, or in specific units affected by work in excess of \$10,000.<sup>5</sup>

This item proposes to apply the \$50,000 threshold for all work affecting multifamily, condominium and commercial buildings exclusive of work affecting the units and apply a \$10,000 threshold to work in excess of \$10,000 inclusive of any individual unit. In addition, this item proposes maintaining the current single-family home requirement when a permit is taken out of any addition, alteration or repair valued in excess of \$50,000.

Consistent with the Los Angeles code, the item removes the exception for commercial occupancies and uses in mixed use buildings of residential and non-residential occupancies with a single gas service line larger than 1 1/2 inches that serves the entire building. Berkeley City staff in 2010 previously suggested that pipes larger than 1 1/2 inches were marginally more expensive to retrofit with valves and therefore warranted an exception. Though upon further review, the few additional hundred dollars in labor and materials per valve does not warrant an exception due to ongoing risks to health and safety.

Berkeley is on top of one of California's most dangerous fault lines, the Hayward fault, making it prone to earthquakes. The extreme fire risk associated with natural gas infrastructure is illustrated by the 2017 U.S. Geological Survey stimulation of "a 7.0 quake on the Hayward fault line with the epicenter in Oakland." The agency's report predicted that "about 450 large fires could result in a loss of residential and commercial building floor area equivalent to more than 52,000 single-family homes and cause

<sup>4</sup> "Installation of Automatic Gas Shut-off Valves," Berkeley Planning and Development Department, July 13, 2010, <https://www.cityofberkeley.info/recordsonline/api/Document/Af7NhvRQQKZ1%C3%81%C3%89xY9QpwmChW6QBqKp%C3%89scsKBclRXOVsvA1QlgXjP%C3%89Rs2zLVn2kCnCNjn918yaZSdbGqiogM WpBM%3D/>

<sup>5</sup> City of Los Angeles Ordinance No. 171874, December 16, 1997, [http://clkrep.lacity.org/onlinedocs/1995/95-0217-S1\\_ORD\\_171874\\_02-05-1998.pdf](http://clkrep.lacity.org/onlinedocs/1995/95-0217-S1_ORD_171874_02-05-1998.pdf); See also, City of Los Angeles Plumbing Code Section 94.1217.0.

property (building and content) losses approaching \$30 billion.”<sup>6</sup> The report identified ruptured gas lines as a key fire risk factor. This finding mirrors the destructive gas fires resulting from the Loma Prieta (1989) and Northridge (1994) earthquakes. According to the most recent census, 59.1% of units in Berkeley are occupied by renters.<sup>7</sup> It is vital to extend the shut-off valve requirement to rental units to prioritize the health and safety of all Berkeley residents and the broader community.

Beyond extending this protection to large rental buildings during major renovations, this ordinance amends BMC 19.34 to mirror the City of Los Angeles’s code to require installing automatic shut-off valves prior to execution of a contract for sale in all buildings and units therein.

The transfer of property triggers various state and local building code requirements. For example, at time of sale the state health and safety code requires that, gas water heaters are seismically braced, anchored, or strapped.<sup>8</sup> Other local ordinances related to environment, such as the BMC 19.81: the Building Energy Saving Ordinance, require energy efficiency reports prior to time of sale. The intention of Section 1209.4.2 is to ensure that all buildings that are sold in Berkeley include automatic gas shut-off valves, therefore enhancing seismic safety across the existing building stock.

FINANCIAL IMPLICATIONS

Staff savings realized from first responders not having to shut off valves manually in case of emergency.

Staff time to submit ordinance to the Building Standards Commission. In addition, building inspector staff time will be necessary to compliance with new provisions.

ENVIRONMENTAL SUSTAINABILITY

Mandating shut-off valves in rental units undergoing renovation and all units at sale will prevent the excess release of greenhouse gases (methane) due to gas leaks and fires during seismic events and other related emergencies.

CONTACT PERSON

Councilmember Kate Harrison, Council District 4, (510) 981-7140

ATTACHMENTS

1: Ordinance

<sup>6</sup> “The HayWired earthquake scenario—Engineering implications,” U.S. Geological Survey, April 18, 2018, <https://pubs.er.usgs.gov/publication/sir20175013v2>.

<sup>7</sup> “Bay Area Census: City of Berkeley” <http://www.bayareacensus.ca.gov/cities/Berkeley.htm>

<sup>8</sup> Health and Safety Code § 18031.7, [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=18031.7.&lawCode=HSC](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=18031.7.&lawCode=HSC)



AMENDING CHAPTER 19.34 OF THE BERKELEY MUNICIPAL CODE TO EXPAND  
AUTOMATIC GAS SHUT-OFF VALVE REQUIREMENTS IN MULTIFAMILY,  
CONDOMINIUM AND COMMERCIAL BUILDINGS UNDERGOING RENOVATIONS  
AND TO ALL EXISTING BUILDINGS PRIOR TO EXECUTION OF A CONTRACT FOR  
SALE OR CLOSE OF ESCROW

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 19.36.040 is hereby amended to read as follows:

**19.34.040 Gas Shut-Off Valves.**

Chapter 12 of the 2016~~9~~ California Plumbing Code is adopted in its entirety subject to the modifications thereto which are set forth below.

**1209.2 General Requirements for Gas Shut-Off Valves.** Automatic gas shut-off valves installed either in compliance with this Section or voluntarily pursuant to a plumbing permit issued on or after the effective date of this Section, shall comply with the following:

**1209.2.1** All valves shall:

1. Comply with all applicable requirements of the Berkeley Plumbing Code.
2. Be tested and listed by recognized testing agencies such as the Independent Laboratory of the International Approval Services (IAS), Underwriter's Laboratory (UL), International Association of Plumbing and Mechanical Officials (IAPMO) or any other agency approved by the State of California Office of the State Architect (OSA).
3. Be listed by the State of California Office of the State Architect (OSA).
4. Be installed on downstream side of the gas utility meter.
5. Be installed in accordance with the manufacturer's instructions.
6. Be installed in accordance with a plumbing permit issued by the City of Berkeley.
7. Provide a method for expedient and safe gas shut-off in an emergency.
8. Provide a capability for ease of consumer or owner resetting in a safe manner.

**1209.2.2** Motion activated seismic gas shut-off valves shall be mounted rigidly to the exterior of the building or structure containing the fuel gas piping, unless otherwise specified in the manufacturer's installation instructions.

**1209.3 Definitions**

For the purpose of this Section terms shall be defined as follows:

**AUTOMATIC GAS SHUT-OFF VALVE** shall mean either a motion activated gas shut-off valve or device or an excess flow gas shut-off valve or device.

**DOWNSTREAM OF GAS UTILITY METER** shall mean all gas piping on the property owner's side of the gas meter and after the service tee.

**EXCESS FLOW GAS SHUT-OFF VALVE** shall mean an approved valve or device that is activated by significant gas leaks or overpressure surges that can occur when pipes rupture inside a structure. Such valves are installed at each appliance, unless otherwise specified by the manufacturer's installation instructions.

**MOTION ACTIVATED GAS SHUT OFF VALVE** shall mean an approved gas valve activated by motion. Valves are set to activate in the event of a moderate or strong seismic event greater than 5.0 on the Richter scale.

**UPSTREAM OF GAS UTILITY METER** shall mean all gas piping installed by the utility up to and including the meter and the utility's service tee.

**1209.4 Devices When Required.** Approved automatic gas shut-off or excess flow valves shall be installed as follows:

**1209.4.1 New Construction.** In any new building construction containing gas piping for which a building permit is first issued on or after the effective date of this Section.

**1209.4.2 Existing Buildings.** In any existing building, when any addition, alteration or repair is made for which a building permit is issued on or after the effective date of this Section and the valuation for the work exceeds \$50,000.

**1209.4.2.1 Multifamily, Condominium and Commercial Buildings.**

1. In any existing commercial, multifamily and condominium and commercial building, and applicable to all units and tenant spaces therein if the building is individually metered and lacks a central automatic shut-off valve downstream of the utility delivery point, when any addition, alteration or repair exclusive of individual units or tenant spaces is made for which a building permit is issued on or after the effective date of this Section and the valuation for the work exceeds \$50,000.
2. In any existing commercial, multifamily and condominium unit for all gas piping serving only those individual units, when any addition, alteration or repair inclusive of individual units or tenant spaces is made for which a building permit is issued on or after the effective date of this Section and the valuation for the work exceeds \$10,000.

**1209.4.3 Sale of Existing Buildings.**

The requirement to install seismic gas shutoff or excess flow shutoff valves shall apply

prior to entering into a contract of sale, or prior to the close of escrow when an escrow agreement has been executed in connection with a sale as follows:

1. in any building or structure, and all units therein when gas piping serving those units lacks a central automatic shut-off valve downstream of the utility delivery point; or
2. in an individual condominium unit for all gas piping serving that individual unit.

**1209.4.4 Exceptions:**

~~1.—Buildings with individually metered residential units when the building contains 5 or more residential units, unless the units are condominiums.~~

~~2.—For residential or mixed use condominium buildings, valves are required when the value of the work exceeds \$50,000 in any single condominium unit or when any work done outside of the units exceeds \$50,000.~~

~~3.—Commercial occupancies and uses in mixed use buildings of residential and non-residential occupancies with a single gas service line larger than 1 1/2 inches that serves the entire building.~~

14. Automatic gas shut-off valves installed with a building permit on a building prior to the effective date of this Section provided the valves remain installed on the building or structure and are adequately maintained for the life of the building or structure.

25. Automatic gas shut-off valves installed on a gas distribution system owned or operated by a public utility.

Section 2. The effective date of this amendment shall be January 1, 2020, or the effective adoption date of the 2019 California Building Standards Code, whichever is sooner.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.





Kate Harrison  
Councilmember District 4

CONSENT CALENDAR  
October 29, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Harrison, Robinson, and Bartlett  
Subject: Oversized Vehicle Restrictions on Bicycle Boulevards

RECOMMENDATION

1. Refer to the Transportation Commission a draft ordinance amending Berkeley Municipal Code Chapter (BMC) 14.56.070 to prohibit commercial trucks exceeding three tons gross vehicle weight from utilizing streets comprising the bicycle boulevards network.
2. Refer to the City Manager to update BMC 14.56.070 as more Berkeley streets become Bicycle Boulevards, as outlined in the 2017 Bicycle Plan.

BACKGROUND

The Berkeley Bicycle Boulevard Network is a series of streets that are intended to be low-speed, low-volume, and optimized for bicycle traffic and other mobility users. The boulevards, now in the second phase of implementation, were approved by the City Council in 2000<sup>1</sup> and are key to improving bicycle safety and convenience.<sup>2</sup>

Restricting oversized vehicles from sharing streets with bicycles is intended as legal protection to complement the physical protection from protected bicycle lanes and other infrastructure. Additional referrals from Council, including the 2017 Bicycle Plan<sup>3</sup> and Vision Zero<sup>4</sup>, seek to build out physical infrastructure, but the majority of streets in the network currently do not feature protected bike lanes and there are no restrictions on which vehicles may share the road with bicyclists. Although Bicycle Boulevards are typically narrower streets with lower than average speed limits, oversized vehicle operators may utilize these streets to avoid congestion.

The 2017 Bicycle Plan found that individuals who may otherwise cycle are hesitant to do so because they deem routes unsafe. Even though Berkeley has the highest rate of

<sup>1</sup> [Use full citation notation]

[https://www.cityofberkeley.info/Public\\_Works/Transportation/Bicycle\\_Boulevard\\_History.aspx](https://www.cityofberkeley.info/Public_Works/Transportation/Bicycle_Boulevard_History.aspx)

<sup>2</sup> <https://www.cityofberkeley.info/bicycleboulevards/>

<sup>3</sup> <https://www.cityofberkeley.info/berkeleybikeplan/>

<sup>4</sup> <https://www.cityofberkeley.info/visionzero.aspx>

bicycling to work in the U.S. of cities with greater than 100,000 residents, City research uncovered that “90 percent of Berkeley residents already bicycle or *would consider* bicycling if the right bikeway facility or roadway conditions were available.”

Oversized vehicles have larger blindspots and take up more room in the lane, making them more dangerous to cyclists. As a result of this, intersections in mixed zones have a higher rate of cyclist injury.<sup>5</sup> Additionally, oversized vehicles have a significant adverse effect on a given street’s Paving Condition Index, making roads worse and more difficult to cycle on. Damage done to streets is exponentially related to weight of vehicle – doubling weight of a vehicle will inflict 16 times as much damage.<sup>6</sup> Paving regularly degrades over time, but oversized vehicles accelerate the process.

Maximizing participation from bicyclists and other mobility users is vital to achieving Berkeley’s health, safety and climate goals. BMC 14.56: Movement of Heavy Vehicles and Equipment specifies streets on which it is unlawful to drive vehicles over five tons (approximately any vehicle with six or more tires) and streets on which it is unlawful to drive vehicles over three tons (approximately any vehicle larger than a pick-up truck). The network of streets on which vehicles over three tons are not permitted (hereafter referred to as “restricted streets”) covers about 27.2 miles worth of Berkeley streets,<sup>7</sup> and are especially concentrated in residential areas of Districts 1, 4, and 7. However, there are about nine miles of bicycle boulevards that are not restricted streets (see Attachment 4). This ordinance intends to include bicycle boulevards in the list of restricted streets.

This ordinance only includes streets that are currently Bicycle Boulevards and not currently included in BMC 14.56.070. The associated referral requests that, as more streets become Bicycle Boulevards as outlined in the 2017 Bicycle Plan, those streets have the same restriction against oversized vehicles.

### FISCAL IMPLICATIONS

Staff time for Traffic/Parking Enforcement to extend enforcement. Currently approximately 27.2 miles of City streets do not permit vehicles over three tons. The stretch of Bicycle Boulevards on which oversized vehicles are not currently restricted is approximately 8.8 miles, which would represent a 32% increase.

Labor and material cost to post signs restricting trucks over three tons. By limiting the number of streets with oversized vehicles, less damage is done to Berkeley’s PCI and fewer streets require frequent repaving.

### ENVIRONMENTAL SUSTAINABILITY

<sup>5</sup> <https://nyc.streetsblog.org/2018/02/26/heres-why-mixing-zones-scare-people-on-bikes-so-much/comment-page-1/>

<sup>6</sup> “Assessing the Effects of Heavy Vehicles on Local Roadways”. Dr. W. James Wilde, P.E. Center for Transportation Research and Implementation, Minnesota State University, Mankato.

<sup>7</sup> See Attachment 2

Protecting the safety of dedicated bicycle lanes is directly in line with the Climate Action Plan and subsequent plans as it has the potential to lower greenhouse gas emissions by encouraging residents to use bicycles and other low-carbon methods of transportation.

CONTACT PERSON

Councilmember Kate Harrison, Council District 4, (510) 981-7140

ATTACHMENTS

- 1: Ordinance
- 2: Map of streets where vehicles over 3 tons are currently not permitted
- 3: Map of Berkeley's Bicycle Boulevard network
- 4: Map of streets to be affected by the adoption of this ordinance

ORDINANCE NO. -N.S.

AMENDING CHAPTER 14.56.070 OF THE BERKELEY MUNICIPAL CODE  
"PROHIBITING THE USE OF CERTAIN STREETS BY COMMERCIAL TRUCKS  
EXCEEDING THREE TONS GROSS VEHICLE WEIGHT."

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That the Berkeley Municipal Code is amended to read as follows:

**14.56.070 Prohibiting the use of certain streets by commercial trucks exceeding three tons gross vehicle weight.**

A. It is unlawful for any person to operate any commercial vehicle exceeding three tons gross vehicle weight on the following portions of streets, hereafter referred to as "restricted streets":

1. Hearst Avenue between 6th Street and San Pablo Avenue;
2. Hearst Avenue between San Pablo Avenue and Sacramento Street;
3. 7th Street between University Avenue and Cedar Street;
4. 8th Street between University Avenue and Cedar Street;
5. 9th Street between University Avenue and Cedar Street;
6. 10th Street between University Avenue and Cedar Street;
7. Delaware Street between San Pablo Avenue and 6th Street;
8. Delaware Street between San Pablo Avenue and Sacramento Street;
9. Virginia Street between San Pablo Avenue and 6th Street;
10. Virginia Street between San Pablo Avenue and Sacramento Street;
11. Francisco Street between San Pablo Avenue and Sacramento Street;
12. Hopkins Street west of Gilman Street;
13. Blake Street between Shattuck Avenue and Telegraph Avenue;
14. Blake Street between San Pablo Avenue and Sacramento Street;
15. Parker Street between Shattuck Avenue and Telegraph Avenue;
16. Carleton Street between Shattuck Avenue and Telegraph Avenue;
17. Carleton Street between San Pablo Avenue and Sacramento Street;
18. Channing Way between San Pablo Avenue and Sacramento Street;
19. Derby Street between Shattuck Avenue and Telegraph Avenue;
20. Ward Street between Shattuck Avenue and Telegraph Avenue;
21. Stuart Street between Shattuck Avenue and Telegraph Avenue;
22. Oregon Street between Shattuck Avenue and Telegraph Avenue;
23. Parker Street between San Pablo Avenue and Sacramento Street;
24. Russell Street between Shattuck Avenue and Telegraph Avenue;
25. Howe Street between Ellsworth Street and Telegraph Avenue;
26. Fulton Street between Ashby Avenue and Dwight Way;
27. Ellsworth Street between Ashby Avenue and Dwight Way;
28. Dana Street between Ward Street and Dwight Way;
29. Spaulding Avenue between Dwight Way and Addison Street;



30. California Street between Dwight Way and University Avenue;
31. Jefferson Avenue between Dwight Way and University Avenue;
32. McGee Avenue between Dwight Way and University Avenue;
33. Roosevelt Avenue between Dwight Way and Addison Street;
34. McKinley Avenue between Dwight Way and Addison Street;
35. Addison Street between Sacramento Street and Martin Luther King Jr. Way;
36. Allston Way between Sacramento Street and Martin Luther King Jr. Way;
37. Bancroft Way between Sacramento Street and Martin Luther King Jr. Way;
38. Channing Way between Sacramento Street and Martin Luther King Jr. Way;
39. Grant Street between Dwight Way and University Avenue;
40. Cedar Street east of 6th Street;
41. Dwight Way between San Pablo Avenue and Martin Luther King Jr. Way;
42. Claremont Avenue between Ashby Avenue and Belrose Avenue;
43. Belrose Avenue between Claremont Avenue and Derby Street;
44. Derby Street between Belrose Avenue and Warring Street;
45. Warring Street between Derby Street and Dwight Way;
46. Piedmont Avenue between Dwight Way and Bancroft Way;
47. Milvia Street between Dwight Way and Hopkins Street;
48. The Uplands between Claremont Avenue and Tunnel Road;
49. Panoramic Way between Canyon Road and Berkeley/Oakland city limits;
50. Kains Avenue between Virginia Street and Harrison Street;
51. Virginia Street between Shattuck Avenue and Martin Luther King Jr. Way;
52. Francisco Street between Shattuck Avenue and Martin Luther King Jr. Way;
53. Delaware Street between Shattuck Avenue and Martin Luther King Jr. Way;
54. Hearst Avenue between Shattuck Avenue and Martin Luther King Jr. Way;
55. Berkeley Way between Shattuck Avenue and Martin Luther King Jr. Way;
56. 8<sup>th</sup> Street between Camelia Street and Berkeley/Albany city limits;
57. Camelia Street between 8<sup>th</sup> Street and 9<sup>th</sup> Street;
58. 9<sup>th</sup> Street between Camelia Street and Cedar Street;
59. 9<sup>th</sup> Street between University Avenue and Heinz Street;
60. Channing Way between 4<sup>th</sup> Street and San Pablo Avenue;
61. Channing Way between Martin Luther King Jr. Way and Piedmont Avenue;
62. California Street between Hopkins Street and University Avenue;
63. California Street between Dwight Way and Russell Street;
64. Milvia Street between Dwight Way and Russell Street;
65. King Street between Russell Street and Stanford Avenue;
66. Russell Street between San Pablo Avenue and Shattuck Avenue;
67. Russell Street between Telegraph Avenue and Claremont Avenue;
68. Virginia Street between Sacramento Street and Martin Luther King Jr. Way;
69. Virginia Street between Shattuck Avenue and Euclid Avenue.






























B. All inter-city buses and tourist buses will be prohibited on these streets. School buses, emergency vehicles, and buses converted for use by disabled people will be allowed to use three-ton commercial truck weight limit routes.

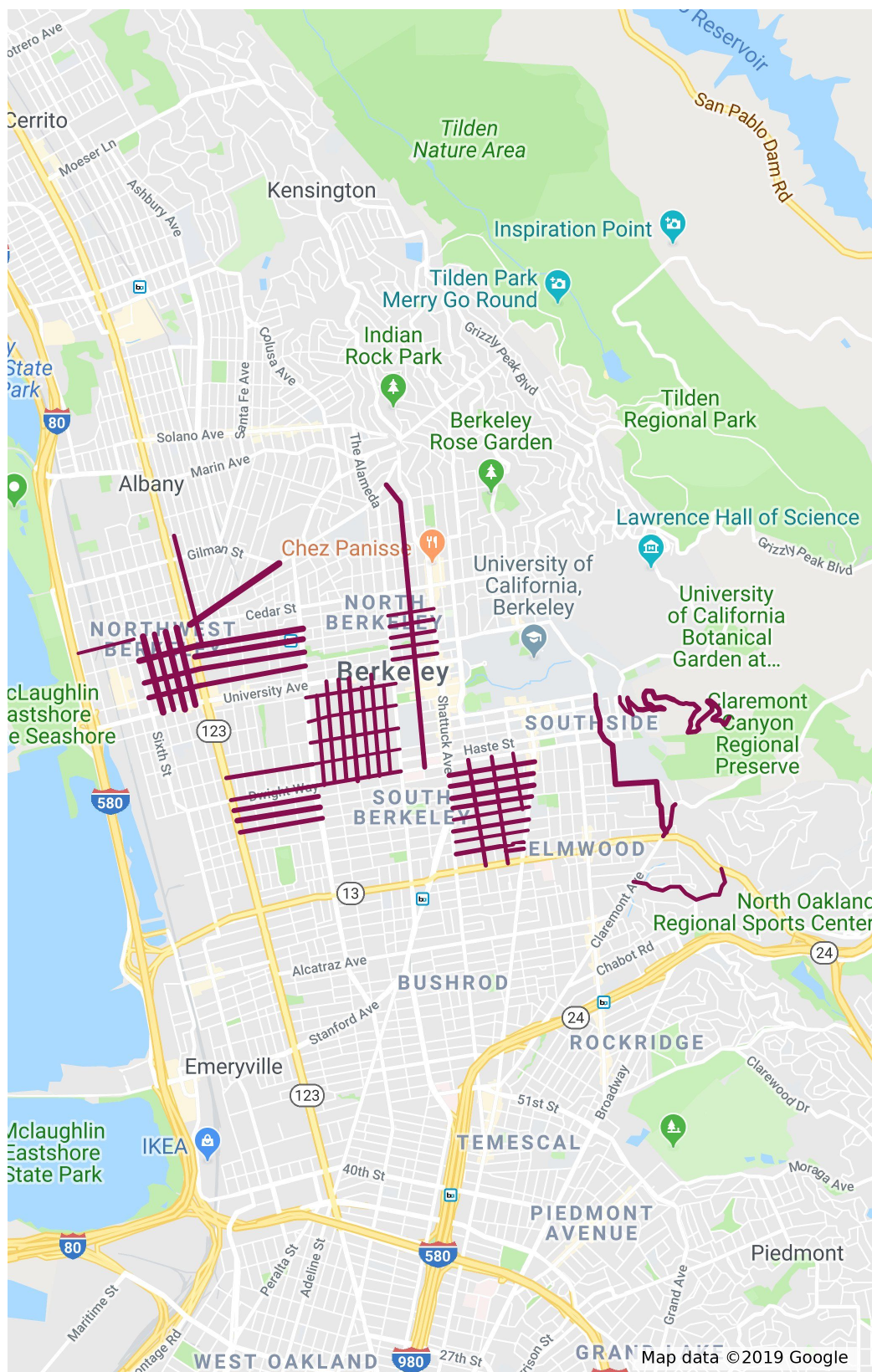
C. The provisions of this section shall not apply to subsections 14.56.050 B and C.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

# D4 restricted streets










Restricted 3 ton

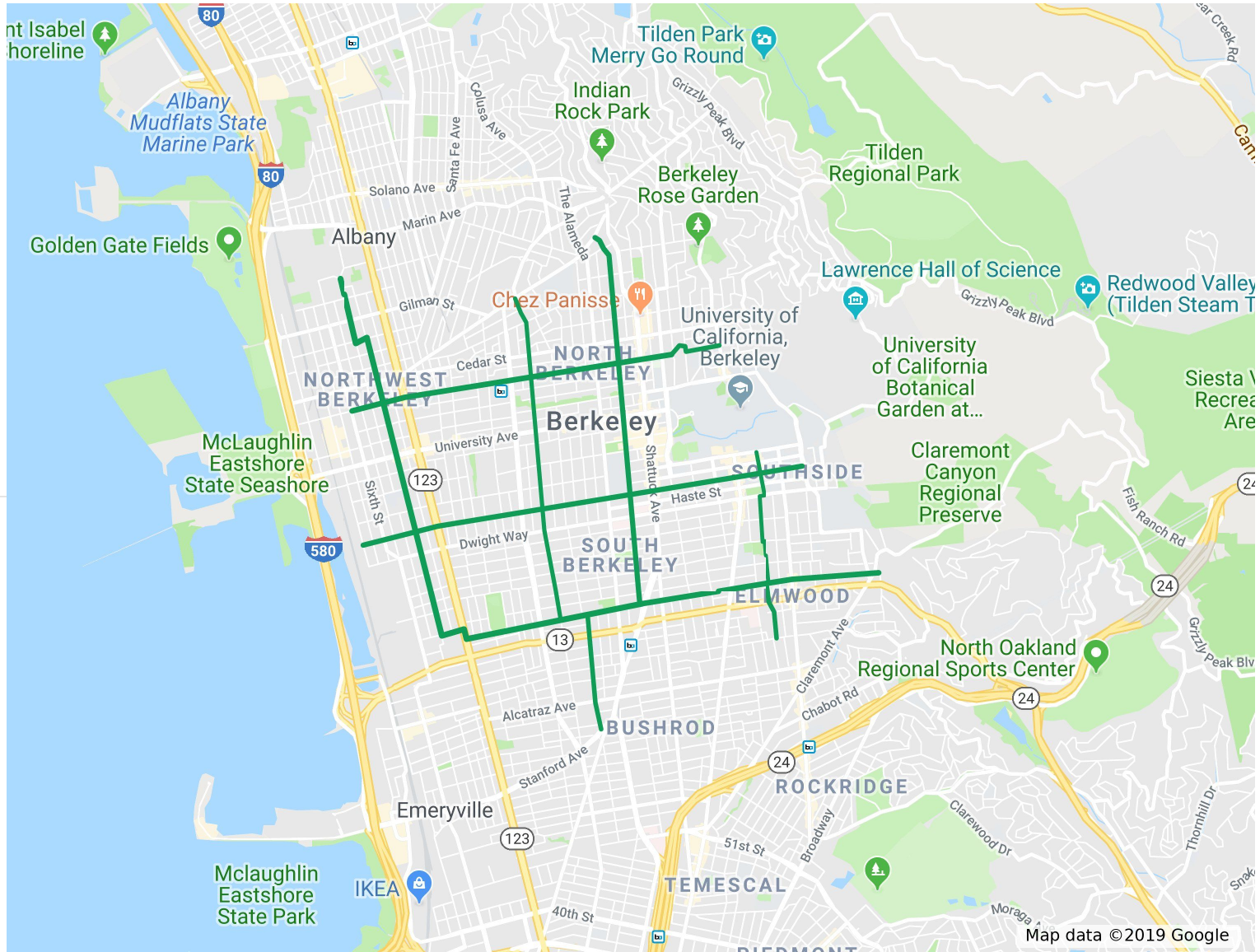
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# D4 restricted streets













## Bike Boulevard – Full

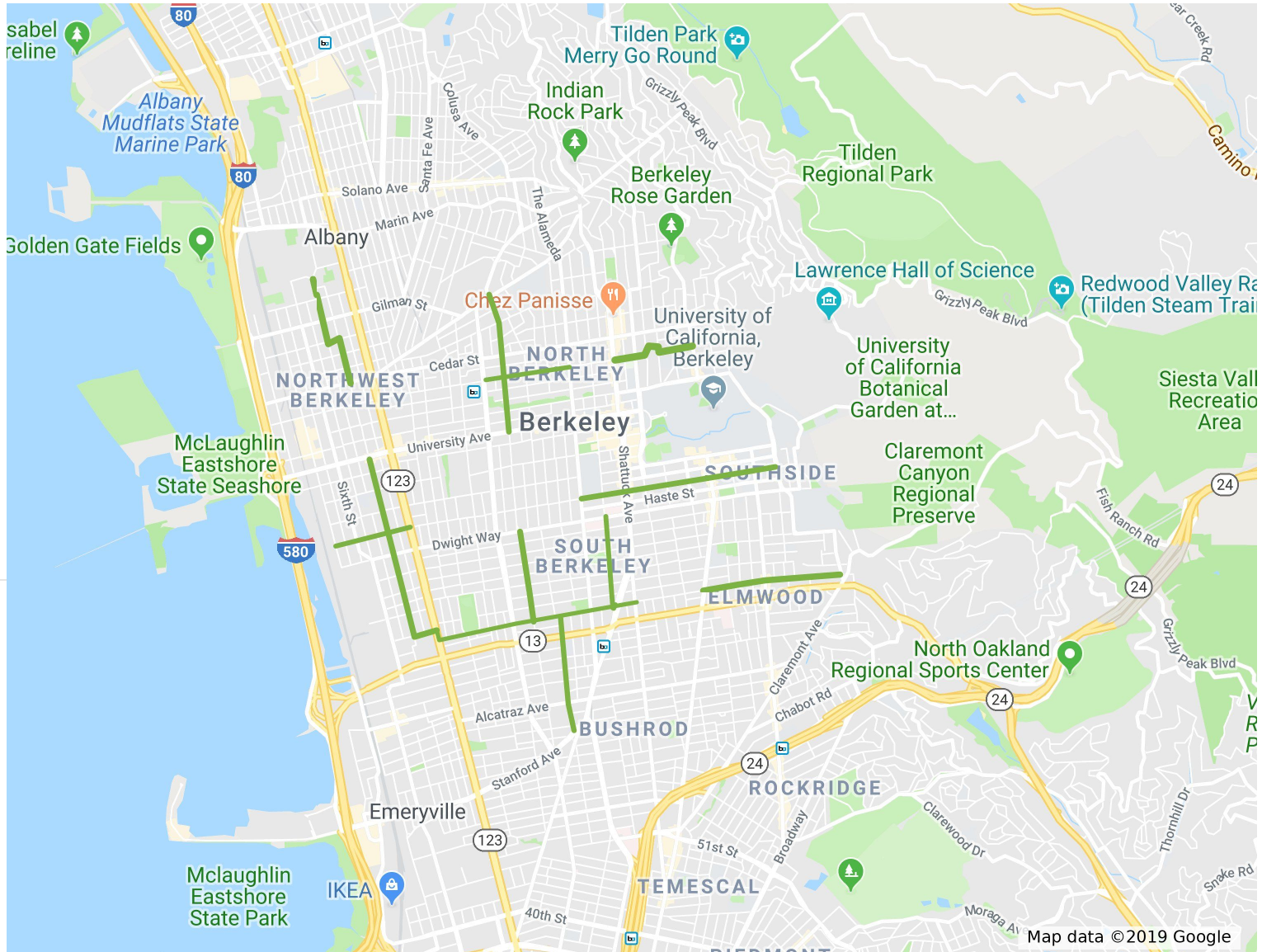
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# D4 restricted streets

Bike Boulevard – Not Protected

-  Line 1
-  Line 2
-  Line 3
-  Line 4
-  Line 5
-  Line 6
-  Line 7
-  Line 9
-  Line 10
-  Line 11
-  Line 12
-  Line 13







Kate Harrison  
Councilmember District 4

CONSENT CALENDAR  
October 29, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Harrison and Kesarwani  
Subject: Budget Referral and Approving Installation of Cameras at Ohlone Park Mural

RECOMMENDATION

1. Pursuant to Berkeley Municipal Code 2.99.060, declare that a camera installed in Ohlone Park at the corner of Hearst Street and Milvia Street will provide benefits to the community that outweigh costs and concerns.
2. Refer \$6,000 to the FY20 November 2019 AAO Process for the purpose of purchasing and installing a surveillance camera.

BACKGROUND

Ohlone Park is a greenway that runs for five blocks through Berkeley, connecting our Downtown to the North Berkeley neighborhood and North Berkeley BART.<sup>1</sup> The park includes four children's playgrounds, a nationally recognized dog park, a four-sided mural commemorating the culture and legacy of the Ohlone people, a community garden, and many other amenities.<sup>2</sup>

Unfortunately, Ohlone Park is also the site significant illegal dumping<sup>3</sup> particularly on the East side of the park between Milvia Street and Bonita Street. For over a year, there have been huge piles of garbage that pile up on the median strip adjacent to Hearst Street. Much of this garbage is next to the Ohlone mural, which should be kept clean out of respect for both the arts and the Ohlone heritage. In addition, this garbage is adjacent to the nearby tot lot, which needs to be kept clean and safe to protect children and families. This garbage presents a health hazard and falls into the bike lane. City Code Enforcement and Zero Waste staff have done an excellent job cleaning up these garbage piles as they occur, but preventative measures are appropriate to deter this dumping in the first place.

Security cameras are extremely effective at deterring crimes. In a Swedish scholarly study on crime deterrents, the existence of a security camera reduced burglaries about 25%,

<sup>1</sup> [https://www.cityofberkeley.info/Parks\\_Rec\\_Waterfront/Trees\\_Parks/PARKS\\_OHLONE\\_PARK\(1\).aspx](https://www.cityofberkeley.info/Parks_Rec_Waterfront/Trees_Parks/PARKS_OHLONE_PARK(1).aspx)

<sup>2</sup> <http://ohlone.transbay.net/>

<sup>3</sup> <https://www.jesseareguin.com/blog-1/2019/2/15/illegal-dumping>

other factors being equal.<sup>4</sup> Security cameras are an effective enough deterrent to work even when the security camera is not real.<sup>5</sup> Crime in San Pablo Park has reduced significantly since the installation of cameras, a success we want to replicate in Ohlone Park.

A safe and clean Ohlone Park is crucial to the quality of life for Berkeley residents, particularly in Districts 1 and 4. After the North Berkeley Senior Center re-opens in the summer of 2020,<sup>6</sup> Ohlone Park east of Martin Luther King, Jr. Way will be a high-traffic area for people with physical disabilities in addition to its current use by children and families, and a park clear of debris will be even more important. Typical surveillance cameras, without any biometric analytics, deter crime effectively enough to improve the quality of life for our residents.

We request two camera without any facial recognition or biometric analytic capabilities.

This referral accompanies our referral to the November 2019 budget process for BigBelly trash cans which will also reduce debris in the park by preventing trash overflow in and riffling through the trash cans.

#### FISCAL IMPLICATIONS

Installation of cameras at San Pablo Park cost \$30,000<sup>7</sup> for 17 cameras. Assuming that the cost for wiring to a park is still significant, and to account for staff installation time, we estimate \$6,000 to purchase and install two surveillance camera from the AAO November budgeting process.

#### ENVIRONMENTAL SUSTAINABILITY

In line with our Zero Waste goals.

#### CONTACT PERSON

Councilmember Kate Harrison, Council District 4, (510) 981-7140

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<sup>4</sup> Mikael Priks, *"The Effects of Surveillance Cameras on Crime: Evidence from the Stockholm Subway."* 2015.

<sup>5</sup> <https://www.globalsecurityexperts.com/home-security/fool-a-deter-the-bad-guys-todays-smartly-designed-dummy-security-cameras.html>

<sup>6</sup>

[https://www.cityofberkeley.info/Health\\_Human\\_Services/Division\\_on\\_Aging/North\\_Berkeley\\_Senior\\_Center\\_is\\_Undergoing\\_Renovation.aspx](https://www.cityofberkeley.info/Health_Human_Services/Division_on_Aging/North_Berkeley_Senior_Center_is_Undergoing_Renovation.aspx)

<sup>7</sup> <https://www.berkeleyinsider.com/2019/03/15/security-cameras-now-live-at-san-pablo-park-in-berkeley>





Office of the City Manager

PUBLIC HEARING  
October 29, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Jordan Klein, Economic Development Manager  
 Subject: Renewal of the Elmwood Avenue BID for Calendar Year 2020

### RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Elmwood Business Improvement District (hereafter, “the District”, “the Elmwood BID” or “the BID”) for 2019-20 and, if no majority protest exists, levy annual assessments in the District for calendar year 2020 to finance services and improvements and authorize a fiscal agency contract with Elmwood Business Association for receipt and expenditure of District funds.

### FISCAL IMPACTS OF RECOMMENDATION

Projected BID revenue of approximately \$30,000 will be deposited into and expensed from the Elmwood BID Fund. The City of Berkeley operates a parking lot within the district and will thus be assessed \$1,000, paid through the Off-Street Parking Fund.

The BID constitutes an independent funding source that must be targeted to commercial revitalization efforts recommended by the Elmwood BID Advisory Board. BID revenues will finance public space improvements, cleaning, promotional activities, holiday decorations and special events. To the extent that the work of the Elmwood BID enhances the development of the Elmwood and its business climate over the long term, the BID contributes towards improving City revenues through increased sales and property taxes.

### CURRENT SITUATION AND ITS EFFECTS

Under the State of California Parking and Business Improvement Area law of 1989 (California Streets and Highways Code Section 36500 et. seq.) that authorized the establishment of the Elmwood BID, the City Council must hold a public hearing before levying assessments for 2020. The renewal process was initiated on October 15, 2019, when Council approved by Resolution No. 69,139-N.S. (Attachment 1, Exhibit A) the Annual report and budget for 2019-20 sent to it by the Advisory Board and set the public hearing date for October 29, 2019. The City Clerk noticed businesses in the Elmwood BID area by publishing Resolution No. 69,139-N.S. in a newspaper of general circulation. If no majority protest is received at the public hearing, at its conclusion the City Council may confirm the Annual report and budget for 2020 and levy assessments.

BACKGROUND

The Elmwood BID was established in November 2013 to provide the Elmwood Business Association with a sustainable, predictable source of funding for its activities to promote, maintain and beautify the Elmwood commercial district. The Elmwood Business Association has used the funds raised through the BID to implement a variety of activities such as marketing and branding, events, and capital improvements.

ENVIRONMENTAL SUSTAINABILITY

By maintaining and enhancing the district, the Elmwood BID creates shopping opportunities for residents and visitors alike while encouraging alternative forms of transportation. The environmental enhancements contribute to making the Elmwood a more pleasant walking destination. Because the district is served by public transportation and biking infrastructure, these services indirectly support environmental sustainability goals of encouraging alternative transportation choices.

RATIONALE FOR RECOMMENDATION

State law requires that the City Council annually renew the Elmwood BID by conducting a public hearing on the proposed renewed assessment for the coming year.

ALTERNATIVE ACTIONS CONSIDERED

The Advisory Board has considered many alternatives for expenditure of its limited revenues and has decided upon the activities described in the Annual Report as its priorities for 2020.

CONTACT PERSON

Jordan Klein, Economic Development Manager, 981-7534

Kieron Slaughter, Community Development Project Coordinator, 981-2490

1: Resolution

Exhibit A: Resolution No. 69,139-N.S., with incorporated Annual Report, map of the District and Assessment table

2: Public Hearing Notice

RESOLUTION NO. ##,###-N.S.

CONFIRMING THE YEAR 2020 ANNUAL REPORT FOR THE ELMWOOD BUSINESS IMPROVEMENT DISTRICT (BID), LEVYING AN ANNUAL ASSESSMENT FOR THE ELMWOOD BID FOR 2020, AND AUTHORIZING A CONTRACT OR CONTRACT AMENDMENTS WITH ELMWOOD BUSINESS ASSOCIATION TO SERVE AS FISCAL AGENT FOR RECEIPT AND EXPENDITURE OF ELMWOOD BID FUNDS

WHEREAS, the Elmwood Business Improvement District (BID) Advisory Board recommended an Annual Report to the Berkeley City Council that outlined the activities of the District proposed for the year 2020, including a budget for said activities, as required by California Streets and Highways Code Section 36533 and Berkeley Municipal Code Section 7.97.080; and

WHEREAS, on October 15, 2019, the City Council by Resolution No. 69,139-N.S (attached as Exhibit A) approved the Annual Report and proposed budget of the Elmwood BID for 2019-20 and declared its intent to levy an assessment in the District to finance the proposed activities for the balance of calendar year 2019; and

WHEREAS, Resolution No. 69,139-N.S. also scheduled a public hearing for October 29, 2019, to consider levying said assessment and gave notice that interested parties could attend and be heard on the issue, for and against; and

WHEREAS, the City Clerk has notified potential assessees of the public hearing by publishing the Resolution of Intention in a newspaper of general circulation; and

WHEREAS, the public hearing has now been held and there has not been protests by business owners who collectively pay 50 percent or more of the assessment proposed to be levied.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that any protests are overruled and the Annual Report of the Elmwood BID is confirmed, thereby levying an annual assessment for the Elmwood BID for calendar year 2020.

BE IT FURTHER RESOLVED that the Council authorizes the City Manager to enter into a contract or contract amendments with Elmwood Business Association to receive and spend funds for purposes approved in the Annual Report and Budget and as directed by the Elmwood BID Advisory Board.

Exhibit A: Resolution No. 69,139-N.S., including the 2019-20 Annual Report, map of the District and Assessment Table

RESOLUTION NO. 69,139-N.S.

APPROVING THE ANNUAL REPORT AND PROPOSED BUDGET OF THE ELMWOOD BUSINESS IMPROVEMENT DISTRICT FOR 2020; DECLARING COUNCIL'S INTENTION TO LEVY AN ASSESSMENT IN THE DISTRICT FOR 2020; AND DIRECTING THE CITY CLERK TO SCHEDULE A PUBLIC HEARING FOR OCTOBER 29, 2019 REGARDING LEVYING OF A RENEWED ASSESSMENT FOR 2020

WHEREAS, the Parking and Business Improvement Area Law of 1989 (California Streets and Highway Code section 36500 et seq.) authorizes cities to establish parking and business improvement areas for the purpose of imposing assessments on businesses for certain purposes; and

WHEREAS, on November 19, 2013 the Berkeley City Council established such an area known as the Elmwood Business Improvement District (the "District"); and

WHEREAS, the City Council established a Elmwood Business Improvement District Advisory Board (Advisory Board) to act in compliance with State law to oversee the activities of the District; and

WHEREAS, the Advisory Board has submitted an Annual Report to the Berkeley City Council that outlines the activities of the District proposed for 2020 as required by the California Streets and Highways Code Section 36533; and

WHEREAS, the Annual Report is clear and complete and found to comply with the interests of Elmwood BID assessees; and

WHEREAS, the annual process for levying assessments in Business Improvement Districts requires that cities adopt a Resolution of Intent that declares their intent to levy such an assessment and then set a date for a public hearing where interested parties may be heard on the issue.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley as follows:

Section 1. The City Council hereby approves the Elmwood Business Improvement District Annual Report for 2019-20 (Exhibit A) as submitted to the City Clerk by the Elmwood Business Improvement District Advisory Board.

Section 2. Pursuant to the provisions of Section 36500 et seq. of the California Streets and Highways Code (the "Act"), the City Council declares its intent to levy an annual assessment for the parking and business improvement area known as the Elmwood Business Improvement District.

Section 3. The boundaries of the District are set forth in Exhibit A1 to the 2019-20 Annual Report which is attached hereto and incorporated herein by reference.

Section 4. The improvements and activities proposed for the District are as described in the Report and budget (Exhibit A) and appended hereto.

Council intends that these funds be used for designated activities and improvements in the Elmwood commercial area. Council explicitly intends that funds generated through this BID shall not be used to pay for activities routinely paid for by the City.

Section 5. The City Council intends to levy assessments on businesses located within the boundaries of the District shown Exhibit A1 and according to the business classifications and rates set forth in Exhibit A2 which is attached hereto and incorporated herein by reference.

Section 6. A public hearing shall be held before the City Council on October 29, 2019 in the School District Board Room, 1231 Addison Street, Berkeley, California. Following the hearing the Council will consider adoption of a resolution levying an assessment as recommended by the Elmwood Business Improvement Advisory Board. At this hearing the Council will hear all interested persons for or against the levying of such an assessment.

Formal protests against the levying of the District assessment must be made in writing. All written and oral protests should contain the following certification: "I certify that I am the owner of the business listed below, and that the business is located or operates within the boundaries of the Elmwood Business Improvement District." Protests should also contain the following information: business name (printed), business address (printed), City Business License Tax Registration number, name of protester (printed), signature of protester, date of protest and the reason(s) the protester is against the levying of the District assessment. Protests will not be considered valid unless signed and submitted by the owner of a business located within the boundaries of the proposed District. Written protests shall be filed with the City Clerk, First Floor, City Hall, at 2180 Milvia Street, Berkeley, California, 94704, at or before 3 pm on October 29, 2019 and shall contain a description of the business sufficient to identify the business, and if the person so protesting is not listed on City records as the owner of the business, the protest shall be accompanied by written evidence that the person subscribing the protest is the owner of the business. Any protest pertaining to the regularity or sufficiency of the proceedings shall be in writing and shall clearly set forth the irregularity or defect to which the objection is made. If written protests are received from the owners of businesses in the District which will pay fifty percent (50%) or more of the assessment proposed to be levied, no further proceedings to levy the assessment shall be taken for a period of one year from the date of the finding of a majority protest by the City Council. If the majority protest is only against the furnishing of a specified type or types of improvements or activities within the District, those types of improvements or activities shall be eliminated.

Section 7. The City Clerk is directed to give notice of said public hearing by publishing the Resolution of Intention in a newspaper of general circulation.

#### Exhibits

- A: Annual Report for the Elmwood Business Improvement District for 2019-20
  - A1: Map of the Elmwood BID
  - A2: Assessment Rates

The foregoing Resolution was adopted by the Berkeley City Council on October 15, 2019 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

Absent: None.

\_\_\_\_\_  
/s/  
Jesse Arreguin, Mayor

Attest: \_\_\_\_\_  
/s/  
Mark Numainville, City Clerk

## EXHIBIT A

### Annual Report for the Elmwood Business Improvement District for 2019-20

August 31, 2019

To: Members of the Berkeley City Council  
From: The Elmwood Business Improvement District Advisory Board  
Re: 2020 Elmwood BID Renewal

We respectfully request that the Elmwood Business Improvement District be renewed for the 2020 fiscal year, without any changes to the assessment method or amount.

The Elmwood BID was established in November 2013 to promote, maintain and beautify the Elmwood commercial district. Revenues of roughly \$32,000 per year provide a regular, predictable source of funding for the activities of the Elmwood Business Association (EBA). The Elmwood BID has allowed the EBA to expand its activities into areas such as maintenance and capital improvements.

The Elmwood Business Association is continuing to be the catalyst for Elmwood Business District's on-going vitality. Here are some highlights of our projects:

- Permanent year-round lighting installation on district buildings
- Website: [www.shoptheelmwood.com](http://www.shoptheelmwood.com) serves as one of the district's main marketing tool – District Events, Introducing New Businesses, and on-going marketing updates
- Hired a landscaping contractor to maintain 70 tree wells – currently on a bi-monthly maintenance schedule
- Quarterly weeding and cleaning of Russell St. parking lot partnering with UC Berkeley
- On-going feasibility study of installation of security camera at Russell St. parking lot
- Maintaining a part-time Administrative Assistant to:
  - Post on social media
  - Manage merchant communications
  - Promote monthly happenings/specials among Elmwood Merchants
  - Updating the website to keep it current
- Sponsored the following events:
  - July 2018: Find Waldo in The Elmwood
  - September 2018: 4<sup>th</sup> Elmwood Wine Walk in The Elmwood w/ 28 merchants participating w/ BUILD (Berkeley United in Literacy Development) of 50% of net proceeds. Over 350 guests and donated \$1,000 to BUILD
  - October 2018: Find Your Mummy in The Elmwood
  - December 2018: Holiday Hunt in The Elmwood
- Held a Merchant Social in conjunction with our Annual Meeting
- Members of the board active in other Berkeley commercial and residential neighborhoods to promote harmony and cooperation
- Planned Elmwood District Shopping Guide/Map

Below for your review is a summary of our current financial position and our proposed budget for 2019-20

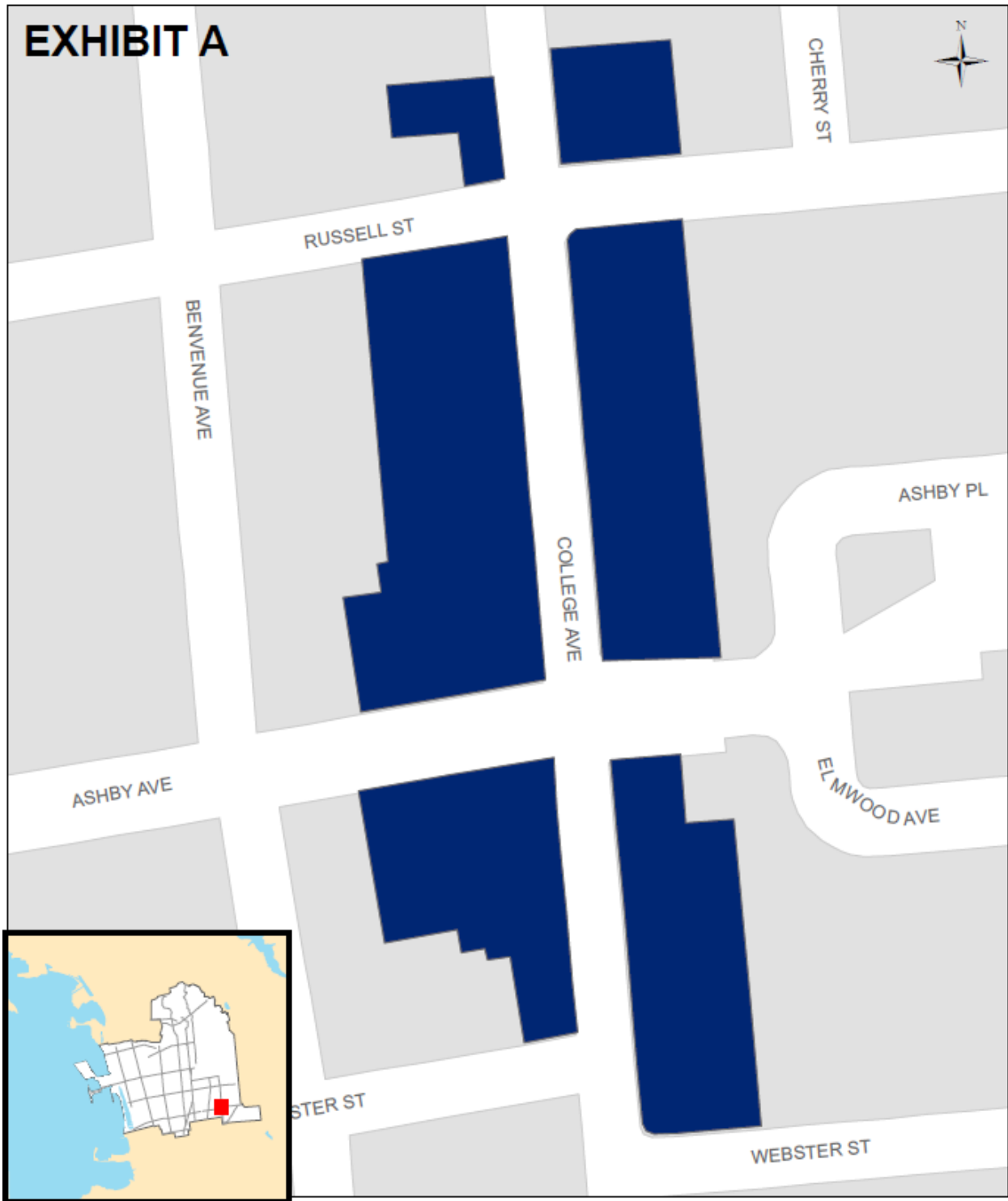
## 2019 - 20 Projected Expenditures Elmwood Business Association

| INCOME                                          | 2019 - 20<br>Proposed<br>Budget | 2018 Actual      |
|-------------------------------------------------|---------------------------------|------------------|
| <b>Operating Income</b>                         |                                 |                  |
| BID Membership dues                             | \$ 30,000                       | \$ 30,000        |
| Other (Partial BID Payment, Wine Walk Income)   | \$ 18,763                       | \$ 19,095        |
| <b>Total Operating Income</b>                   | <b>\$ 48,763</b>                | <b>\$ 49,095</b> |
| <b>Non-Operating Income</b>                     |                                 |                  |
| Other                                           |                                 |                  |
| <b>Total Non-Operating Income</b>               | <b>\$ -</b>                     | <b>\$ -</b>      |
| <b>Total INCOME</b>                             | <b>\$ 48,763</b>                | <b>\$ 49,095</b> |
| <b>EXPENSES</b>                                 |                                 |                  |
| Admin Support                                   | \$ 9,000                        | \$ 9,000         |
| Cleaning and Maintenance (Gardening)            | \$ 4,000                        | \$ 4,201         |
| Dues and Subscriptions                          | \$ 450                          | \$ 450           |
| Charitable Donations                            | \$ 2,000                        | \$ 3,500         |
| Accounting Software                             | \$ 120                          | \$ 103           |
| Dues and Subscriptions                          | \$ 450                          | \$ 450           |
| Insurance                                       | \$ 1,100                        | \$ 1,143         |
| Legal and Professional Fees                     |                                 |                  |
| Marketing/Advertising (incl. Holiday Marketing) | \$ 12,000                       | \$ 12,871        |
| Printing/Copy                                   | \$ 500                          | \$ 466           |
| Holiday Private Security                        | \$ 6,500                        | \$ 6,400         |
| Special Events-Wine Walk                        | \$ 11,120                       | \$ 9,852         |
| Taxes and Licenses                              | \$ 50                           | \$ 30            |
| Web Hosting and Domains                         | \$ 650                          | \$ 620           |
| Postage & Delivery (PO Box)                     | \$ 120                          | \$ 108           |
| Other (Annual Mtg/EBA Social)                   | \$ 1,200                        | \$ 642           |
| <b>Total Operating Expenses</b>                 | <b>\$ 49,260</b>                | <b>\$ 49,836</b> |
| <b>Retained Earnings</b>                        | <b>\$ (497)</b>                 | <b>\$ (741)</b>  |

Thank you for your attention to this matter. We look forward to an equally productive year for the BID in 2020.



Exhibit A1: Elmwood Business Improvement District, Map



**Exhibit A2: Elmwood Business Improvement District, Assessment Rates**

| <b>Classifications</b>                                                                                                                                                                                                                                                                                          | <b>Rates</b>                                                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| Retail including jewelers and groceries but not restaurants<br>(Tax Codes R, M and G but without NAICS 722, Food Services and Drinking Places) <ul style="list-style-type: none"> <li>Gross receipts under \$350,000</li> <li>Gross receipts \$350,000=\$999,000</li> <li>Gross receipts \$1,000,000</li> </ul> | \$250.00 per year<br>\$350.00 per year<br>\$500.00 per year |
| Restaurants, including all businesses that prepare and serve food at the request of customers (NAICS 722)                                                                                                                                                                                                       | \$500.00 per year                                           |
| Professionals including offices of real estate brokers (Tax Code P) <ul style="list-style-type: none"> <li>Gross receipts under \$100,000</li> <li>Gross receipts over \$100,000</li> </ul>                                                                                                                     | \$300.00 per year<br>\$400.00 per year                      |
| Entertainment and Recreation (Tax Code E)                                                                                                                                                                                                                                                                       | \$450.00 per year                                           |
| Business, Personal and Repair Services (Tax Code B) except Hair, Nail and Skin Cares Services (NAICS 81211)                                                                                                                                                                                                     | \$200.00 per year                                           |
| Hair, Nail and Skin Care Services (NAICS 81211)                                                                                                                                                                                                                                                                 | \$250.00 per year                                           |
| Parking lot operators                                                                                                                                                                                                                                                                                           | \$1,000.00 per year                                         |
| Financial Institutions                                                                                                                                                                                                                                                                                          | \$2,500.00 per year                                         |

Any business that is classified as a nonprofit (Tax Code N) for business license purposes shall nevertheless pay the assessment at the rate that corresponds to its North American Standard Industrial Classification if it is engaged in the sale of products or services and occupies a space zoned for commercial purposes.

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**RENEWAL OF THE ELMWOOD BUSINESS IMPROVEMENT DISTRICT  
AND LEVYING OF ASSESSMENT FOR 2020**

The Elmwood Business Improvement District (BID) Advisory Board is proposing that the Berkeley City Council confirm the Annual Report of the Elmwood BID for 2019-20 and levy an assessment for the balance of 2020.

The hearing will be held on October 29, 2019 at 6:00 p.m. in the School District Board Room, 1231 Addison Street, Berkeley, California.

A copy of the agenda material for this hearing will be available on the City’s website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **October 17, 2019**.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers. Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

For further information, please contact Kieron Slaughter, Community Development Project Coordinator, at 510-981-2490.

**Published:** Resolution of Intention No. 69,139-N.S. October 21, 2019 – Daily Cal  
As required by Streets and Highways Code Section 36534.

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on October 17, 2019.

Mark Numainville, City Clerk



Office of the City Manager

PUBLIC HEARING
October 29, 2019

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Jordan Klein, Economic Development Manager
 Subject: Renewal of the Solano Avenue BID for Calendar Year 2020

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Solano Avenue Business Improvement District (hereafter, "Solano BID Advisory Board" or "the BID") for 2019-20 and, if no majority protest exists, levy annual assessments in the District for calendar year 2020 to finance services and improvements and authorize a fiscal agency contract for receipt and expenditure of District funds.

FISCAL IMPACTS OF RECOMMENDATION

Projected BID revenue of approximately \$25,000 will be deposited into and expensed from the Solano Avenue BID Fund. The BID constitutes an independent funding source that must be targeted to commercial revitalization efforts that are recommended by the Solano BID Advisory Board. The work of the Solano BID enhances the economic development of Solano Avenue and its business climate over the long term, and therefore the BID contributes towards improving City revenues through increased sales and property taxes.

CURRENT SITUATION AND ITS EFFECTS

Under the State of California Parking and Business Improvement Area law of 1989 (California Streets and Highways Code Section 36500 et. seq.) that authorized the establishment of the Solano Avenue BID, the City Council must hold a public hearing before levying assessments for 2019. The renewal process was initiated on October 15, 2019, when Council approved by Resolution No. 69,140-N.S. (See Attachment 1, Exhibit A) the Annual report and budget for 2019-20 sent to it by the Advisory Board and set the public hearing date for October 29, 2019. (The Annual Report with a budget is part of Attachment 1, Exhibit A). The City Clerk noticed businesses in the Solano Avenue BID area by publishing Resolution No. 69,140-N.S. in a newspaper of general circulation. If no majority protest is received at the public hearing, at its conclusion the City Council may confirm the Annual report and budget for 2020 and levy assessments.

BACKGROUND

Since its revival in May 2012, the Solano BID Advisory Board has used Solano BID revenues to finance three programs: 1) a tree watering contract to ensure the health of 48 young street trees on Solano; 2) installing a program of 40 hanging planter baskets

on light poles; and 3) sponsorship of events that attract customers to the district and improvements that enhance the pedestrian experience. In 2019, the BID program has focused on sponsoring activities and improvements intended to market and promote the Solano Avenue business district. In the wintertime, the BID in conjunction with the Solano Avenue Association (which represents both Albany and Berkeley businesses along Solano Avenue) pays a contractor to erect holiday lights and decorations on City street light poles. This will continue for the 2019-20 season. Although the BID will spend a good portion of its funds on the holiday décor program, in 2020 it plans to use some funds to establish an expanded landscaping program for merchants to clean and level tree wells. Also, the BID will continue to support local marketing and “shop local” campaigns, and events including the “Art Walk” and Solano holiday programming “Santa on Solano”, as requested by partnering Solano based organizations. BID expenditures are to be made through an established fiscal agency contract with Telegraph Property and Business Management Corporation.

ENVIRONMENTAL SUSTAINABILITY

By maintaining and enhancing the district, the Solano BID creates shopping opportunities for residents and visitors alike while encouraging alternative forms of transportation. The District is adjacent to the popular surrounding residential North Berkeley neighborhoods and is served by AC Transit lines and has upgraded bike parking and shelters which provide easy accessibility for both residents and visitors coming to and from this retail destination. The environmental enhancements such as the added street trees, hanging planters, parklet, and holiday decorations contribute to making Solano a more pleasant walking destination. Because the District is well served by public transportation and biking infrastructure, these services indirectly support environmental sustainability goals of encouraging alternative transportation choices and decreasing vehicle miles traveled.

RATIONALE FOR RECOMMENDATION

State law requires that the City Council annually renew the Solano BID by conducting a public hearing on the proposed renewed assessment for the coming year.

ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered.

CONTACT PERSON

Jordan Klein, Economic Development Manager, (510) 981-7534.

Eleanor Hollander, Economic Development Project Coordinator, (510) 981-7536.

Attachments

1: Resolution

Exhibit A: Resolution No. 69,140-N.S., with incorporated Annual Report, Budget, District Map, and Assessment table

2: Public Hearing Notice

RESOLUTION NO. ##,###-N.S.

CONFIRMING THE ANNUAL REPORT AND BUDGET FOR THE SOLANO AVENUE BUSINESS IMPROVEMENT DISTRICT (BID), LEVYING AN ANNUAL ASSESSMENT FOR THE SOLANO AVENUE BID FOR 2020, AND AUTHORIZING A CONTRACT OR CONTRACT AMENDMENTS WITH A SUITABLE NON-PROFIT TO SERVE AS FISCAL AGENT FOR RECEIPT AND EXPENDITURE OF SOLANO AVENUE BID FUNDS

WHEREAS, the Solano Avenue Business Improvement District (BID) Advisory Board recommended an Annual Report to the Berkeley City Council that outlined the activities of the District proposed for the year 2020, including a budget for said activities, as required by California Streets and Highways Code Section 36533 and Berkeley Municipal Code Section 7.97.080; and

WHEREAS, on October 15, 2019, the City Council by Resolution No. 69,140-N.S (attached as Exhibit A) approved the Annual Report and proposed budget of the Solano Avenue BID for 2019-20 and declared its intent to levy an assessment in the District to finance the proposed activities for the calendar year 2020; and

WHEREAS, Resolution No. 69,140-N.S. also scheduled a public hearing for October 29, 2019, to consider levying said assessment and gave notice that interested parties could attend and be heard on the issue, for and against; and

WHEREAS, the City Clerk has notified potential assessees of the public hearing by publishing the Resolution of Intention in a newspaper of general circulation; and

WHEREAS, the public hearing has now been held and there has not been protests by business owners who collectively pay 50 percent or more of the assessment proposed to be levied.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that protests are over-ruled and the Annual Report of the Solano Avenue BID is confirmed, thereby levying an annual assessment for the Solano Avenue BID for calendar year 2020.

BE IT FURTHER RESOLVED that the Council authorizes the City Manager to enter into a contract or contract amendments with a suitable non-profit to receive and spend funds for purposes approved in the Annual Report and Budget and as directed by the Solano Avenue BID Advisory Board.

Exhibit A: Resolution No. 69,140-N.S. (October 15, 2019), including the 2019-20 Annual Report and Budget, District Map, and Assessment Table

RESOLUTION NO. 69,140-N.S.

APPROVING THE ANNUAL REPORT AND PROPOSED BUDGET OF THE SOLANO AVENUE BUSINESS IMPROVEMENT DISTRICT FOR 2020; DECLARING COUNCIL'S INTENTION TO LEVY AN ASSESSMENT IN THE DISTRICT FOR 2020; AND DIRECTING THE CITY CLERK TO SCHEDULE A PUBLIC HEARING FOR OCTOBER 29, 2019 TO CONSIDER LEVYING A RENEWED ASSESSMENT FOR 2020.

WHEREAS, the Parking and Business Improvement Area Law of 1989 (California Streets and Highway Code section 36500 et seq.) authorizes cities to establish parking and business improvement areas for the purpose of imposing assessments on businesses for certain purposes; and

WHEREAS, on December 9, 2003 the Berkeley City Council established such an area known as the Solano Avenue Business Improvement District (the "District"); and

WHEREAS, the City Council established a Solano Avenue Business Improvement District Advisory Board (Advisory Board) to act in compliance with State law to oversee the activities of the District; and

WHEREAS, the City Council established a Solano Avenue Business Improvement District Advisory Board (Advisory Board) to act in compliance with State law to oversee the activities of the District; and

WHEREAS, the Advisory Board has submitted an Annual Report to the Berkeley City Council that outlines the activities of the District proposed for 2020 as required by the California Streets and Highways Code Section 36533; and

WHEREAS, the Annual Report is clear and complete and found to comply with the interests of Solano Avenue assessees; and

WHEREAS, the annual process for levying assessments in Business Improvement Districts requires that cities adopt a Resolution of Intent that declares their intent to levy such an assessment and then set a date for a public hearing where interested parties may be heard on the issue.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley as follows:

Section 1. The City Council hereby approves the Solano Avenue Business Improvement District Annual Report for the year 2020 (Exhibit A) as submitted to the City Clerk by the Solano Avenue Business Improvement District Advisory Board.

Section 2. Pursuant to the provisions of Section 36500 et seq. of the California Streets and Highways Code (the "Act"), the City Council declares its intent to levy an annual assessment for the parking and business improvement area known as the Solano Avenue Business Improvement District.

Section 3. The boundaries of the District are set forth in Exhibit A1 to the 2019-20 Annual Report which is attached hereto and incorporated herein by reference.

Section 4. The improvements and activities proposed for the District are as described in the Report and budget (Exhibit A) and appended hereto.

Council intends that these funds be used for designated activities and improvements in the Solano Avenue commercial area. Council explicitly intends that funds generated through this BID shall not be used to pay for activities routinely paid for by the City.

Section 5. The City Council intends to levy assessments on businesses located within the boundaries of the District shown Exhibit A1 and according to the business classifications and rates set forth in Exhibit A2 which is attached hereto and incorporated herein by reference.

Section 6. A public hearing shall be held before the City Council on October 29, 2019 in the Council Chambers, 1231 Addison Street, Berkeley, California. Following the hearing the Council will consider adoption of a resolution levying an assessment as recommended by the Solano Avenue Business Improvement Advisory Board. At this hearing the Council will hear all interested persons for or against the levying of such an assessment.

Formal protests against the levying of the District assessment must be made in writing. All written and oral protests should contain the following certification: "I certify that I am the owner of the business listed below, and that the business is located or operates within the boundaries of the Solano Avenue Business Improvement District." Protests should also contain the following information: business name (printed), business address (printed), City Business License Tax Registration number, name of protester (printed), signature of protester, date of protest and the reason(s) the protester is against the levying of the District assessment. Protests will not be considered valid unless signed and submitted by the owner of a business located within the boundaries of the proposed District. Written protests shall be filed with the City Clerk, First Floor, City Hall, at 2180 Milvia Street, Berkeley, California, 94704, at or before 3 pm on October 29, 2019 and shall contain a description of the business sufficient to identify the business, and if the person so protesting is not listed on City records as the owner of the business, the protest shall be accompanied by written evidence that the person subscribing the protest is the owner of the business. Any protest pertaining to the regularity or sufficiency of the proceedings shall be in writing and shall clearly set forth the irregularity or defect to which the objection is made. If written protests are received from the owners of businesses in the District which will pay fifty percent (50%) or more of the assessment proposed to be levied, no further proceedings to levy the assessment shall be taken for a period of one year from the date of the finding of a majority protest by the City Council. If the majority protest is only against the furnishing of a specified type or types of improvements or activities within the District, those types of improvements or activities shall be eliminated.

Section 7. The City Clerk is directed to give notice of said public hearing by publishing the Resolution of Intention in a newspaper of general circulation seven days prior to the public hearing.

Exhibits

A: Report for the Solano Avenue Business Improvement District 2019-20

A1: Map of the Solano BID

A2: Assessment Rates

The foregoing Resolution was adopted by the Berkeley City Council on October 15, 2019 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

Absent: None.

/s/
Jesse Arreguin, Mayor

Attest: _____
/s/
Mark Numainville, City Clerk

Report for the Solano Avenue Business Improvement District for 2019 and Budget for 2020

Background

The first version of the Solano Business Improvement District (BID) operated from 2002-2007 with administration of the BID headed by the Solano Avenue Association. In January, 2012, the Council appointed the Solano BID Advisory Board to administer the Solano Avenue BID, to fund physical improvements to the street and dedicate marketing and promotion efforts towards the businesses on the portion of Solano Avenue that lies in Berkeley. This Annual report and budget updates the seventh full year of operational programs and progress on the revived Solano BID.

Landscape program

In 2013, the Solano BID financed a tree watering program for young street trees along upper Solano Avenue. In 2016, per the City of Berkeley arborist, the trees were mature enough to not require additional water services. In early 2016, the board voted to enhance Solano's landscape by installing a program of 41 hanging planter baskets on light poles distributed throughout the district; utilizing the Downtown Berkeley Association's (DBA) services. The DBA watered and maintained the baskets through the end of calendar year 2018, but has declined to continue this contract. In 2019, significant rain supported the baskets, and the Solano BID started a conversation with The Streets Team to supplement other efforts to clean, weed, and level the tree wells through the district, and to develop an ongoing watering and maintenance system for the hanging flower baskets. This work should begin soon, and provide support for 2020 and beyond.

In addition, funds have recently been approved for a full traffic/transportation study on Solano, and the BID will support Councilmember Hahn in involving both local merchants and local residents in the effort to re-imagine Solano Avenue in a way that brings more vitality to the Avenue. This effort will consider also the concurrent efforts of the City of Albany in its similar effort with the middle section of Solano Avenue, with the intention of strengthening the Solano Avenue 'brand' overall.

Marketing and promotion of Solano

Marketing and promotion of Solano Avenue constitutes the second priority of the Solano BID. To promote the avenue during the holiday season, a holiday light display program was established by the Solano BID. In 2016 and 2017 the BID contracted with a vendor, the Christmas Light Pros of SF, to deploy decorative unlit multi-colored garlands. In 2018, the board approved funding for a new vendor which, under direction of the Solano Avenue Association (SAA), covered more poles and provided greater decoration coordination opportunities with neighboring Albany, all at a lower cost than previous seasons. The intention for the holiday season in 2019-20 is to use the same vendor and reimburse the SAA after the lights are installed. This partnership underscores the leverage that the SAA organization has been able to provide to support BID efforts for the Berkeley portion of Solano Avenue.

In the remainder of 2019, the Advisory Board may again decide to participate in the development of holiday campaigns and activities (i.e. supporting the Solano Avenue Association

in the ‘Santa on Solano’ event or similar). In 2019, the group worked with the Solano Avenue Association to produce the second annual Art Walk, with a 50% increase in merchant participation overall. In addition, the BID district hosted (via one merchant) a Bike to Work Day location for the second year in a row. The details of the overall 2020 event and marketing program will be developed over the remainder of the year, with a possible Wine Walk and coordinated launch party for the new Touchstone Oaks bouldering gym at the top of the Avenue.

Expanded landscaping improvements have yet to be determined by the board. It is presumed that provided a successful demonstration of landscaping maintenance this fall/winter season (2019-20), a multi-year contract could be extended accordingly.

Solano BID Administration

The Solano BID has one existing contract; a fiscal agent contract with the Telegraph Property and Business Management Corporation (Telegraph PBMC), who charges a 5% fee on their total contract size annually.

FINANCIAL STATUS OF THE SOLANO BID, SEPTEMBER 2019

Solano BID Revenue, as of 9/10/2019	=	\$34,881.76
Less fiscal agent fee to Telegraph PBMC (5%) ¹	=	(\$1,250.00)
Less funds for Flower Basket/Tree well Landscaping	=	(\$2,000.00)
Less funds for Art Walk event(s)	=	(\$1,000.00)
Less funds allocated for decorative holiday garlands		
+ Installation + Removal + Storage (11/19 – 1/20)	=	(\$7,500.00)
Unallocated as of 9/10/2019	=	\$23,131.76

BUDGET FOR THE SOLANO BID FOR 2020 (Calendar Year)

Estimated new revenue	=	\$25,000.00
Carryover from 2019 (estimated)	=	\$23,131.76
Total available for expenditure in 2020	=	\$48,131.76

PROPOSED EXPENDITURES FOR 2020 (Calendar Year)

Landscaping installation/tree well porous pavement	=	\$3,000.00
Watering and Maintenance for hanging flower baskets	=	\$3,700.00
Installation, removal and storage of holiday decor 2020-21 season	=	\$8,000.00
<u>Other marketing expenditure (Art Walk/Holiday Campaign etc.)</u>	=	<u>\$ 3,000.00</u>
Total projected expenditure	=	\$17,700.00

¹ \$1,250.00 is the anticipated the “not-to-exceed” amount of the fiscal agent fee (5%) of the total contract amount for the time period 1/1/20 to 12/31/2020. This may change slightly depending on the size of the collected new revenue for 2020 (which is currently estimated at \$25,000.00).

Recommendations

The Advisory Board recommends that the Council approve the Annual Report and Budget for 2020.

The Advisory Board recommends that the Council make no changes in the boundaries of the Solano Business Improvement District or in the two Benefit Zones, A & B.

The recommended improvements and activities for 2020 are those stated in the Report. The cost for providing them is stated in the Budget for 2020.

The method and basis for the assessment is as stated in Exhibit A2.

The estimate for surplus revenues to be carried over from 2019 is as stated in the Budget for 2020.

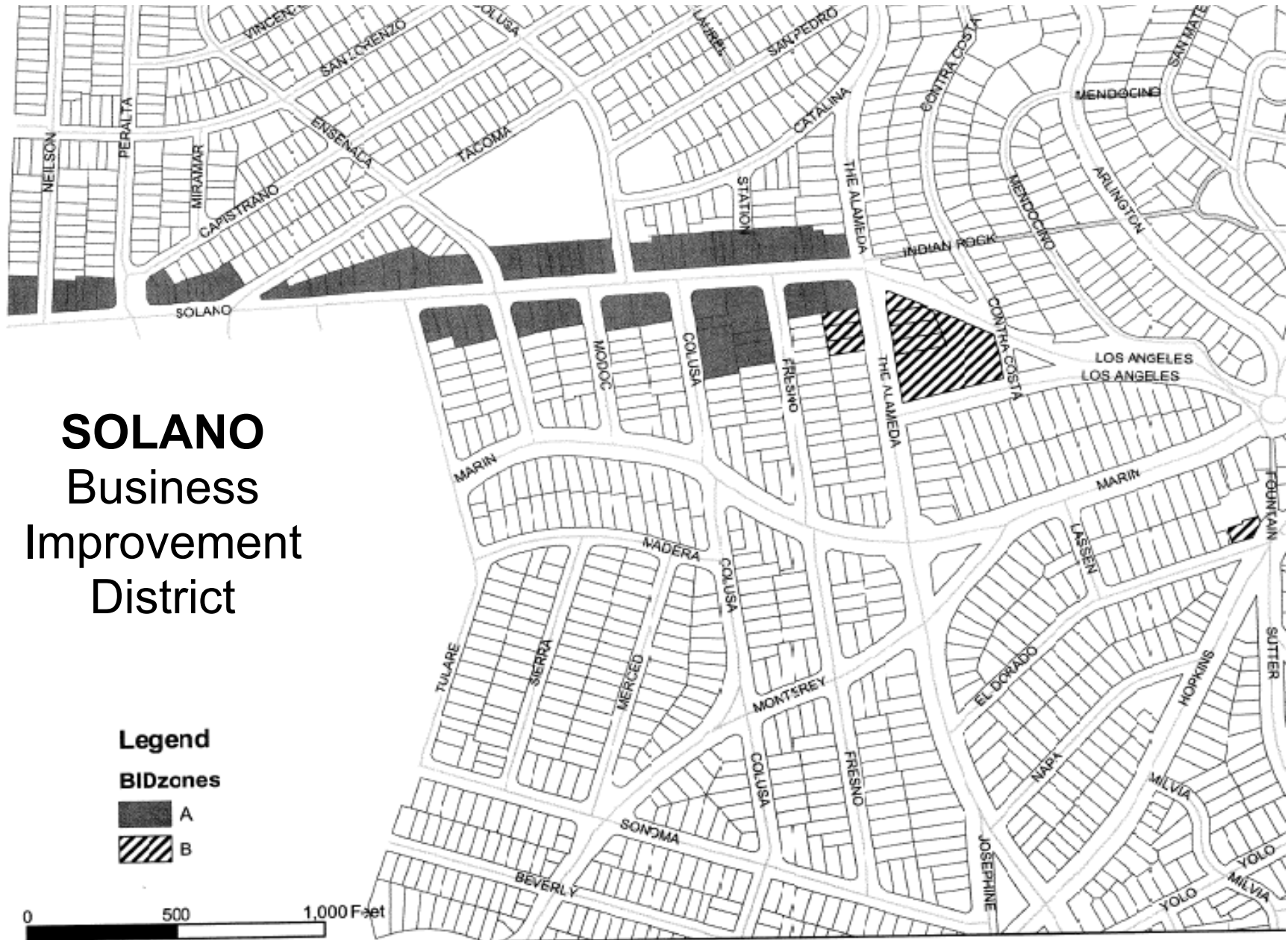


Exhibit A2

Berkeley Solano Avenue Business Improvement District Annual Assessment Formula

Type of Business		Annual Assessments	
		Zone A	Zone B
<i>a. Retailers and Restaurants</i>	1-5 employees	\$200	\$125
	6-9 employees	\$300	\$175
	10+ employees	\$400	\$225
<i>b. Service Businesses</i>		\$175	\$100
<i>c. Professional Services</i>		\$100	\$65
<i>d. Financial Institutions</i>		\$500	\$500

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

**RENEWAL OF THE SOLANO AVENUE BUSINESS IMPROVEMENT
DISTRICT AND LEVYING OF ASSESSMENT FOR 2020**

The Solano Avenue Business Improvement District (BID) Advisory Board is proposing that the Berkeley City Council confirm the Annual Report of the Solano Avenue BID for 2019 and levy an assessment for 2020.

The hearing will be held on October 29, 2019 at 6:00 p.m. in the School District Board Room, 1231 Addison Street, Berkeley, California.

A copy of the agenda material for this hearing will be available on the City’s website at www.CityofBerkeley.info as of **October 17, 2019**.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers. Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

For further information, please contact Eleanor Hollander, Economic Development Project Coordinator, at 510-981-7536.

Published: Resolution of Intention No. 69,140-N.S. October 21, 2019 – Daily Cal
As required by Streets and Highways Code Section 36534.

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on October 17, 2019.

Mark Numainville, City Clerk





Office of the City Manager

PUBLIC HEARING

October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Phillip L. Harrington, Director, Public Works

Subject: Amend BMC Chapter 14.52 Adding the North Shattuck Metered Parking Area to the goBerkeley Program

RECOMMENDATION

Conduct a public hearing, and upon conclusion adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 14.52 to add the North Shattuck metered parking area to the goBerkeley parking program.

FISCAL IMPACTS OF RECOMMENDATION

There are no immediate fiscal impacts of adding existing parking meters in the North Shattuck commercial district to the goBerkeley program. The attached Ordinance makes these meters eligible for demand-responsive price adjustments under existing goBerkeley program guidelines. The accompanying Information Report contains specific price and time limit adjustments for this new North Shattuck goBerkeley area.

CURRENT SITUATION AND ITS EFFECTS

The goBerkeley parking program regularly monitors parking conditions in the program areas to ensure a majority of block faces in these areas maintain parking occupancies between 65-85%.<sup>1</sup> The goBerkeley parking program uses demand-responsive pricing, consistent time limits, and clearer signage to make it easier to find parking and create more parking availability, thus reducing congestion caused by drivers circling for parking.

In particular, goBerkeley “Premium” parking zones offer time limits up to two or three hours, thus providing visitors enough time to run errands and engage in leisure activities, but still limiting parking time to induce turnover and maximize usage of limited curb space. Where warranted and supported by parking occupancy data, “Value” zones are created to offer four or eight-hour parking at lower prices, typically at the periphery of commercial areas, providing options for employees or others who may want to legally park for longer durations.

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<sup>1</sup> The equivalent of between one and two available parking spaces per block face, which is defined as one side of one block (e.g., the north side of Center Street between Milvia Street and Shattuck Avenue).

Parking meters in the North Shattuck area are located along Shattuck Avenue between Hearst Avenue and Berryman Street, Walnut Street between Cedar Street and Rose Street, and on streets intersecting Shattuck Avenue and Walnut Street in these locations.<sup>2</sup> In spring 2019 staff analyzed parking activity in the North Shattuck area on weekdays at 9 a.m., 12 p.m., 3 p.m., and 5 p.m. and confirmed that demand is high, with very limited on-street parking availability throughout this area during peak times.

Staff also conducted public outreach with businesses in the North Shattuck district in summer 2019 to better understand local parking needs and perceptions. Staff engaged in over sixty in-person conversations and administered nearly sixty surveys to merchants and/or employees. The findings showed that a majority of businesses do not find parking easily, and are dissatisfied with current time limits and the effect of existing parking restrictions on their business. Meters in the North Shattuck commercial district currently have an hourly rate of \$1.50/hour and time limits including thirty minutes, one hour, and two hours.

Based on recent occupancy analysis and outreach, staff recommend adding the North Shattuck district to the goBerkeley program. The accompanying Information Report presents staff's recommendations for initial adjustments to meter prices and time limits, in accordance with goBerkeley program guidelines. These guidelines include adjusting prices up or down in increments of no more than \$0.50 at one time, providing advance notice to Council and the public at least thirty (30) days prior to making changes in the field, and recommending adjustments no more frequently than sixty (60) days.

The ordinance also fixes two typos, adding meters in the 2100 block of Delaware Street to the new North Shattuck goBerkeley area and identifying the 1900 block of Walnut Street as being within the Downtown Berkeley goBerkeley area.

## BACKGROUND

The City uses metered parking and time limit restrictions to manage demand for parking in commercial areas. However, paid parking is the most effective means of generating parking availability (i.e., turnover), as some parking patrons who are used to parking for free will choose to park elsewhere, opening up spots for those who are willing to pay for a spot closer to their destination.

The goBerkeley program builds on this foundation, comprising a suite of evidence-based strategies and initiatives designed to improve economic vitality and reduce greenhouse gas emissions. The goBerkeley parking program provides better customer service through clearer signage and longer time limits, and improved parking availability that reduces distracted driving and makes streets safer for all users.

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<sup>2</sup> The intersecting streets with parking meters include Delaware Street, Francisco Street, Virginia Street, Lincoln Street, Vine Street, and Rose Street.

### ENVIRONMENTAL SUSTAINABILITY

Parking pricing is the most effective means of increasing parking availability. Drivers who are able to find parking close to their destination do not need to circle for parking, thereby reducing traffic congestion and vehicle emissions.

As a primary goal, goBerkeley seeks to reduce traffic congestion and air pollution caused by drivers circling as they search for on-street parking. Expanding goBerkeley to additional areas of the City increases the program's effectiveness in mitigating parking demand. Further, this program will help the City meet its established Climate Action Plan goals, including reducing transportation emissions 80% below 2000 levels by 2050.<sup>3</sup>

### RATIONALE FOR RECOMMENDATION

With a proven and transparent set of strategies such as demand-responsive pricing and longer, more consistent time limits, the goBerkeley program seeks to make parking in the City's vibrant local business districts easier to find and understand. Including the North Shattuck district in the goBerkeley program provides increased flexibility to staff to actively manage the area's limited parking supply. As a result, customers and visitors will benefit from clearer signage and increased parking availability.

### ALTERNATIVE ACTIONS CONSIDERED

Council could choose to not authorize adding the North Shattuck commercial district to the goBerkeley program, which would maintain existing one and two hour time limits and fixed meter rates. Staff would be unable to actively manage the parking supply per goBerkeley program guidelines, limiting the City's ability to achieve parking availability goals in this area and allowing known parking constraints to continue.

### CONTACT PERSON

Farid Javandel, Transportation Manager (510) 981-7061  
Danette Perry, Parking Services Manager (510) 981-7057  
Gordon Hansen, Senior Planner (510) 981-7064

### Attachments:

- 1: Ordinance
2. Public Hearing Notice
- 3: Map of North Shattuck Metered Area

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<sup>3</sup> November 3, 2015 Council Worksession: <http://bit.ly/111IYVV>

ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 14.52 TO ADD METERS IN  
NORTH SHATTUCK COMMERCIAL AREA TO GOBERKELEY PROGRAM

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Chapter 14.52.010 is amended to read as follows:

**14.52.010 Parking meter zones.**

A. Parking meter zones are those streets or portions of streets in the City hereinafter described as zones within which the parking of motor vehicles shall be controlled, regulated and inspected with the aid of parking meters, pay-and-display stations and/or a City-approved software application that processes pay-by-phone payments from a mobile phone, consisting of:

Acton Street, both sides, from 150 feet north of University Avenue to University Avenue.  
 Adeline Street, east side, from Ward to Stuart Street.  
 Adeline Street, both sides, from Stuart Street to Oregon Street.  
 Adeline Street, east side, from Oregon Street to Russell Street.  
 Adeline Street, both sides, from Russell Street to Ashby Avenue.  
 Alcatraz Avenue, south side, from 75 feet east of College Avenue to College Avenue.  
 Ashby Avenue, both sides, from Domingo Avenue to Claremont Avenue.  
 Blake Street, both sides, from Telegraph Avenue to 125 feet west of Telegraph Avenue.  
 Bonar Street, east side, from University Avenue to 150 feet south of University Avenue.  
 Bonar Street, west side, from University Avenue to Addison Street.  
 California Street, both sides, from 100 feet north of University Avenue to 100 feet south of University Avenue.  
 Camelia Street, north side, from Ninth Street to Tenth Street.  
 Camelia Street, north side, from San Pablo Avenue to 100 feet west of San Pablo Avenue.  
 Claremont Avenue, east side, from Russell Street to Ashby Avenue.  
 Claremont Avenue, west side, from Russell Street to Claremont Boulevard.  
 Colby Street, west side, from Webster Street to South Hospital Drive.  
 College Avenue, east side, from 150 feet north of Alcatraz Avenue to Berkeley-Oakland city limits south of Alcatraz Avenue.  
 College Avenue, west side, from Alcatraz Avenue to Berkeley-Oakland city limit, south of Alcatraz Avenue.  
 Colusa Avenue, east side, from 225 feet south of Solano Avenue to Catalina Avenue.  
 Colusa Avenue, west side, from 180 feet south of Solano Avenue to Catalina Avenue.  
 Curtis Street, both sides, from 100 feet north of University Avenue to University Avenue.  
 Derby Street, north side, from 150 feet east of Telegraph Avenue to 50 feet west of Telegraph Avenue.  
 Derby Street, south side, from 150 feet east of Telegraph Avenue to Telegraph Avenue.  
 Derby Street, south side from Milvia Street to 300 feet east of Milvia Street.  
 Domingo Avenue, both sides, from Berkeley-Oakland city limit to Ashby Avenue.

Dwight Way, north side, from San Pablo Avenue extending 40 feet east of San Pablo Avenue.

Ensenada Avenue, east side, from 90 feet south of Solano Avenue, to 66 feet north of Solano Avenue.

~~Francisco Street, both sides, from Shattuck Avenue to 100 feet west of Shattuck Avenue.~~

Fresno Avenue, east side, from 69 feet south of Solano Avenue to Solano Avenue.

Grayson Street, south side, from San Pablo Avenue extending 60 feet west of San Pablo Avenue.

Grove Street, both sides, from Allston Way to Berkeley Way.

Hearst Avenue, north side, from Third Street to Fifth Street.

Hearst Avenue, south side, from Third Street to Sixth Street.

~~Lincoln Street, south side, from Shattuck Avenue to 150 feet west of Shattuck Avenue.~~

McKinley Avenue, east side, from approximately 110 feet from Allston Way to 155 feet, Monday through Friday, nine a.m. to six p.m.

Milvia Street, east side from Derby Street to Ward Street.

Modoc Street, east side, from 90 feet south of Solano Avenue to Solano Avenue.

Modoc Street, west side, from 66 feet south of Solano Avenue to Solano Avenue.

Oregon Street, north side, from 75 feet east of Telegraph Avenue to 50 feet west of Telegraph Avenue.

Oregon Street, south side, from 175 feet east of Telegraph Avenue to Telegraph Avenue.

Oregon Street, both sides, from Adeline Street to Shattuck Avenue.

Page Street, north side, from San Pablo Avenue to Tenth Street.

Pardee Street, south side, from San Pablo Avenue extending 60 feet west of San Pablo Avenue.

Parker Street, both sides, from 200 feet west of Regent Street to 100 feet west of Telegraph Avenue.

Peralta Avenue, both sides, from Solano Avenue to Capistrano Avenue.

Regent Street, west side, from Ashby Avenue to South Hospital Drive.

Regent Street, east side, from Ashby Avenue to 125 feet south of Webster Street.

~~Rose Street, north side, from 100 feet east of Shattuck Avenue to 100 feet west of Henry Street.~~

~~Rose Street, south side, from Walnut Street to Shattuck Place.~~

Russell Street, south side, from 75 feet east of Telegraph Avenue to 100 feet west of Telegraph Avenue.

San Pablo Avenue, both sides, from Hearst Avenue to Allston Way.

San Pablo Avenue, both sides, from Harrison Street to Gilman Street.

San Pablo Avenue, east side, from Gilman Street to Camelia Street.

San Pablo Avenue, both sides, from Camelia Street to Virginia Street.

San Pablo Avenue, both sides, from Virginia Street to Delaware Street.

San Pablo Avenue, both sides, from Delaware Street to Hearst Avenue.

San Pablo Avenue, both sides, from Allston Way to Channing Way.

San Pablo Avenue, east side, from Channing Way to Parker Street.

San Pablo Avenue, both sides, from Parker Street to Heinz Street.

San Pablo Avenue, east side, from Russell Street to Burnett Street.

San Pablo Avenue, west side, from Bancroft Way to Ashby Avenue.

~~Shattuck Avenue, both sides, from 100 feet north of Rose Street to Hearst Street.~~

~~Shattuck Avenue, east side, from Rose Street to Vine Street.~~

Shattuck Avenue, both sides, from Carleton Street to Ashby Avenue.

~~Shattuck Place, west side, from Rose Street to Shattuck Avenue.~~

Solano Avenue, both sides, from Tulare Avenue to The Alameda.

Solano Avenue, north side, from 140 feet to 184 feet east of The Alameda.

South Hospital Drive, south side, from Colby Street to 75 feet west of Colby Street.

Stuart Street, south side, from 50 feet east of Telegraph Avenue to Telegraph Avenue.

Stuart Street, north side, from Adeline Street to 70 feet east of Shattuck Avenue.

Tacoma Avenue, both sides, from Solano Avenue to 66 feet north of Solano Avenue.

Telegraph Avenue, west side, from Dwight Way to Prince Street.

Telegraph Avenue, east side, from Dwight Way to Woolsey Street.

The Alameda, east side, from Los Angeles Avenue to Solano Avenue.

Tenth Street, both sides, from Gilman Street to Camelia Street.

The Alameda, west side, from 220 feet north of Los Angeles Avenue to 90 feet north of Solano Avenue.

Tulare Avenue, east side, from 90 feet south of Solano Avenue to Solano Avenue.

University Avenue, both sides, from McGee Avenue to Third Street.

~~Vine Street, north side, from 75 feet east of Walnut Street to 100 feet east of Henry Street.~~

~~Vine Street, south side, from 100 feet east of Henry Street to 150 feet east of Walnut Street.~~

~~Virginia Street, north side, from 150 feet east of Shattuck Avenue to 150 feet west of Shattuck Avenue.~~

~~Virginia Street, south side, from Shattuck Avenue to 125 feet west of Shattuck Avenue.~~

~~Walnut Street, both sides, from University Avenue to Berkeley Way.~~

~~Walnut Street, west side, from Rose Street to 200 feet south of Vine Street.~~

~~Walnut Street, east side, from 75 feet north of Vine Street to 125 feet south of Vine Street.~~

Ward Street, north side from Milvia Street to 300 feet east of Milvia Street.

Webster Street, north side, from Bateman Street to Regent Street.

Webster Street, north side, from Colby Street to 150 feet west of Telegraph Avenue.

Webster Street, south side, from Colby Street to 100 feet west of Telegraph Avenue.

Fifth Street, both sides, from Addison Street to Hearst Avenue.

Fifth Street, west side, from Hearst Street to Virginia Street.

Fourth Street, east side, from Addison Street to Virginia Street.

Fourth Street, west side, from Addison Street to Cedar Street.

Sixth Street, east side, Addison Street to University Avenue.

Seventh Street, east side, from University Avenue to 150 feet south of University Avenue.

Eighth Street, west side, from 100 feet north of University Avenue to 200 feet south of University Avenue.

Ninth Street, west side, from 75 feet north of University Avenue to 150 feet south of University Avenue.

Ninth Street, east side from Gilman Street to 300 feet north of Gilman Street.

Tenth Street, east side, from 100 feet north of University Avenue to 100 feet south of University Avenue.

Tenth Street, west side from Gilman Street to 300 feet north of Gilman Street.

B. goBerkeley Program parking meter zones are those streets or portions of streets in the City located within the goBerkeley Areas hereinafter described as zones within which the parking of motor vehicles shall be controlled, regulated and inspected with the aid of parking meters, pay-and-display stations, and/or a City-approved software application that processes pay-by-phone payments from a mobile phone at fees set in 14.52.120(B):

Addison Street, north side, from Martin Luther King Jr. Way to 170 feet west of Martin Luther King Jr. Way.

Allston Way, both sides, from Harold Way to Shattuck Avenue.

Allston way, south side, from Oxford Street to Martin Luther King Jr. Way.

Ashby Avenue, north side, from College Avenue to Benvenue Avenue.

Ashby Avenue, south side, from Benvenue Avenue to Elmwood Avenue.

Ashby Place, east side, from Ashby Avenue to a point 80 feet north of Ashby Avenue.

Bancroft Way, both sides, from Piedmont Avenue to Fulton Street.

Bancroft Way, both sides, from Fulton Street to Milvia Street.

Benvenue Avenue, west side, from Ashby Avenue to 100 feet south of Ashby Avenue.

Berkeley Way, south side, from Oxford Street to 385 feet west of Shattuck Avenue.

Berkeley Way, north side, from Oxford Street to Henry Street.

Blake Street, south side, from 80 feet west of Shattuck Avenue to Shattuck Avenue.

Bonita Avenue, east side, from University Avenue to Berkeley Way.

Bowditch Street, east side, from Bancroft Way to Dwight Way.

Center Street, north side, from Oxford Street to Martin Luther King Jr. Way.

Center Street, south side, from Oxford Street to Martin Luther King Jr. Way.

Channing Way, north side, from 200 feet west of Dana Street to College Avenue.

Channing Way, north side, beginning 250 feet west of Shattuck Avenue to Shattuck Avenue.

College Avenue, east side, from 75 feet south of Webster Street to 175 feet north of Russell Street.

College Avenue, west side, from 140 feet north of Russell Street to Webster Street.

College Avenue, east side, from Bancroft Way to 200 feet south of Dwight Way.

College Avenue, west side, from Bancroft Way to Dwight Way.

Dana Street, west side, between Bancroft Way and Channing Way.

Dana Street, west side, from Haste Street to 150 feet south of Haste Street.

[Delaware Street, south side, from Shattuck Avenue to 60 feet east of Shattuck Avenue.](#)

Durant Avenue, north side, from Ellsworth Street to College Avenue.

Durant Avenue, south side, from Ellsworth Street to College Avenue.

Durant Avenue, both sides, from Milvia Street to Fulton Street.

Dwight Way, both sides, from Milvia Street to Fulton Street.

Dwight Way, south side, from Hillegass Avenue to Benvenue Street.

Dwight Way, north side, from 300 feet east of Dana Street to 300 feet east of Telegraph Avenue.

Dwight Way, south side, beginning 325 feet west of Telegraph Avenue and extending 125 feet east of Regent Street.

Dwight Way, north side, from Bowditch Street to College Avenue.

Grant Street, both sides, from 100 feet north of University Avenue to 100 feet south of University Avenue.

Euclid Avenue, west side, beginning at Hearst Avenue and extending 130 feet north of Ridge Road.

Euclid Avenue, east side, beginning at Hearst Avenue and extending 135 feet north of Ridge Road.

Francisco Street, both sides, from Shattuck Avenue to 100 feet west of Shattuck Avenue.

Fulton Street, both sides, from Bancroft Way to Kittredge Street.

Fulton Street, west side, beginning at Durant Avenue and extending south for 80 feet.

Fulton Street, east side, from Bancroft Way to Durant Avenue.

Harold Way, both sides, from Allston Way to Kittredge Street.

Haste Street, both sides, from Milvia Street to 250 feet east of Shattuck Avenue.

Haste Street, north side, from College Avenue to Dana Street.

Haste Street, south side, beginning 350 feet west of Telegraph Avenue to 300 feet east of Telegraph Avenue.

Haste Street, south side, from Bowditch Street to College Avenue.

Hearst Avenue, north side, from Oxford Street to Shattuck Avenue.

Hearst Avenue, south side, from Shattuck Avenue to Oxford Street

Hearst Avenue, south side, from Oxford Street to Arch Street

Hearst Avenue, north side, from Scenic Avenue to LaLoma Avenue.

Hearst Avenue, south side, from Euclid Avenue to Gayley Road.

Kittredge Street, both sides, from Shattuck Avenue to Oxford Street.

LaLoma Avenue, both sides, from Hearst Avenue to Ridge Road.

LeRoy Avenue, both sides, from Hearst Avenue to Ridge Road.

Lincoln Street, south side, from Shattuck Avenue to 150 feet west of Shattuck Avenue.

Martin Luther King Jr. Way, both sides, from Center Street to Addison Street.

Milvia Street, both sides, from Berkeley Way to Addison Street.

Oxford Street, west side, from Hearst Avenue to University Avenue.

Ridge Road, north side, beginning 250 feet west of Euclid Avenue and extending 100 feet east of Euclid Avenue.

Ridge Road, south side, from 250 feet west of Euclid Avenue to LeRoy Avenue.

Rose Street, north side, from 100 feet east of Shattuck Avenue to 100 feet west of Henry Street.

Rose Street, south side, from Walnut Street to Shattuck Place.

Russell Street, north side, from 85 feet east of College Avenue to 175 feet west of College Avenue.

Russell Street, south side, from 200 feet west of College Avenue to 120 feet east of College Avenue.

Scenic Avenue, east side, from Hearst Avenue to Ridge Road.

Shattuck Avenue, east side, from Rose Street to Vine Street.

Shattuck Avenue, both sides, from ~~Hearst Street to~~ 100 feet north of Rose Street to University Avenue.

Shattuck Avenue, both sides, of the west roadway, from University Avenue to Addison Street (Shattuck Square).

Shattuck Avenue, both sides, of the east roadway, from University Avenue to Addison Street (Shattuck Square).

Shattuck Avenue, both sides, of the west roadway, from Addison Street to Center Street (Berkeley Square).



Shattuck Avenue, both sides, of the east roadway, from Addison Street to Center Street (Berkeley Square).

Shattuck Place, west side, from Rose Street to Shattuck Avenue.

University Avenue, both sides, from Oxford Street to McGee Avenue.

Webster Street, north side, from 125 feet east of College Avenue to 100 feet west of College Avenue.

Webster Street, south side, from 100 feet west of College Avenue to 125 feet east of College Avenue.

Addison Street, both sides, from Milvia Street to Oxford Street.

Allston Way, both sides, from MLK Jr. Way to Oxford Street.

Berkeley Square, both sides, from Addison Street to Center Street.

Center Street, both sides, from MLK Jr. Way to Oxford Street.

Harold Way, both sides, from Allston Way to Kittredge Street.

Kittredge Street, both sides, from Milvia Street to Shattuck Avenue.

Milvia Street, east side, from Kittredge Street to Center Street.

Milvia Street, both sides, from Center Street to Addison Street.

MLK Jr. Way, both sides, from Center Street to Allston Way.

Oxford Street, both sides, from University Avenue to Kittredge Street.

Oxford Street, east side, from Hearst Street to University Avenue.

Parker Street, both sides, from 100 feet west of Shattuck Avenue to Shattuck Avenue.

Parker Street, north side, from 100 feet east of Shattuck Avenue to Shattuck Avenue.

Shattuck Avenue, both sides, from Center Street to Carleton Street.

Telegraph Avenue, both sides, from Dwight Way to Bancroft Way.

Vine Street, north side, from 75 feet east of Walnut Street to 100 feet east of Henry Street.

Vine Street, south side, from 100 feet east of Henry Street to 150 feet east of Walnut Street.

Virginia Street, north side, from 150 feet east of Shattuck Avenue to 150 feet west of Shattuck Avenue.

Virginia Street, south side, from Shattuck Avenue to 125 feet west of Shattuck Avenue.

Walnut Street, both sides, from University Avenue to Berkeley Way.

Walnut Street, west side, from Rose Street to 200 feet south of Vine Street.

Walnut Street, east side, from 75 feet north of Vine Street to 125 feet south of Vine Street.

C. The City Traffic Engineer shall cause parking meters and pay-and-display stations to be installed and maintained in all parking meter zones and goBerkeley Program parking meter zones.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

**NOTICE OF PUBLIC HEARING – BERKELEY CITY COUNCIL  
SCHOOL DISTRICT BOARD ROOM, 1231 ADDISON STREET,  
BERKELEY**

**AUTHORIZE INCLUSION OF PARKING METERS IN THE NORTH  
SHATTUCK COMMERCIAL DISTRICT IN GOBERKELEY PROGRAM  
TUESDAY, OCTOBER 29, 2019 AT 6:00 P.M.**

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said City Council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Department of Public Works is proposing to include metered parking located in the North Shattuck commercial district in the goBerkeley demand-responsive parking program. This includes parking meters on the following blocks:

- Francisco Street, both sides, from Shattuck Avenue to 100 feet west of Shattuck Avenue.
- Lincoln Street, south side, from Shattuck Avenue to 150 feet west of Shattuck Avenue.
- Rose Street, north side, from 100 feet east of Shattuck Avenue to 100 feet west of Henry Street.
- Rose Street, south side, from Walnut Street to Shattuck Place.
- Shattuck Avenue, both sides, from 100 feet north of Rose Street to Hearst Street.
- Shattuck Avenue, east side, from Rose Street to Vine Street.
- Shattuck Place, west side, from Rose Street to Shattuck Avenue.
- Vine Street, north side, from 75 feet east of Walnut Street to 100 feet east of Henry Street.
- Vine Street, south side, from 100 feet east of Henry Street to 150 feet east of Walnut Street.
- Virginia Street, north side, from 150 feet east of Shattuck Avenue to 150 feet west of Shattuck Avenue.
- Virginia Street, south side, from Shattuck Avenue to 125 feet west of Shattuck Avenue.
- Walnut Street, west side, from Rose Street to 200 feet south of Vine Street.
- Walnut Street, east side, from 75 feet north of Vine Street to 125 feet south of Vine Street.

The goBerkeley program adjusts parking rates to achieve 65-85% parking occupancy at on-street metered areas and in off-street facilities. This target rate is equivalent to between 1-2 parking spaces available at peak hours, such as noon on weekdays. goBerkeley also offers two general types of parking, marked by clear, color-coded

signage, to increase the range of legal public parking options available to visitors, customers, and employees. In goBerkeley “Premium” zones, typically located in core business districts, higher prices and shorter time limits (2-3 hours) maximize access to shops and services.

The table below describes the current range of parking rates at meters within the goBerkeley program, per Ordinance 7498 (July 19, 2016). The table also shows the limitations on the size of rate adjustments and frequency of rate changes. Per existing program guidelines, parking rates may be adjusted by no more than \$0.50 per hour, not more often than once per 60 calendar days.

| On-Street Parking Meters: North Shattuck Expansion Area |             |                              |                         |                                               |
|---------------------------------------------------------|-------------|------------------------------|-------------------------|-----------------------------------------------|
|                                                         | Current     | goBerkeley Hourly Rate Range | Increment               | Frequency                                     |
| On-Street Parking Meters                                | \$1.50/hour | \$0.50/hr – \$8.00/hr        | Not more than \$0.50/hr | Not more often than once per 60 calendar days |

The hearing will be held on October 29, 2019 at 6:00 p.m. in the School District Board Room, 1231 Addison Street

A copy of the agenda material for this hearing will be available on the City’s website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **October 17, 2019**.

For further information, please contact Farid Javandel, Transportation Division Manager, at 510-981-7061.

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services Specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in

the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

**Published:** October 18 and 25, 2019 – The Berkeley Voice

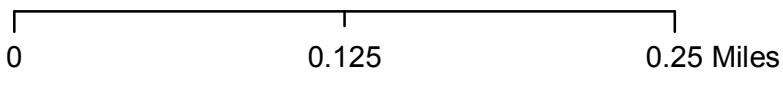
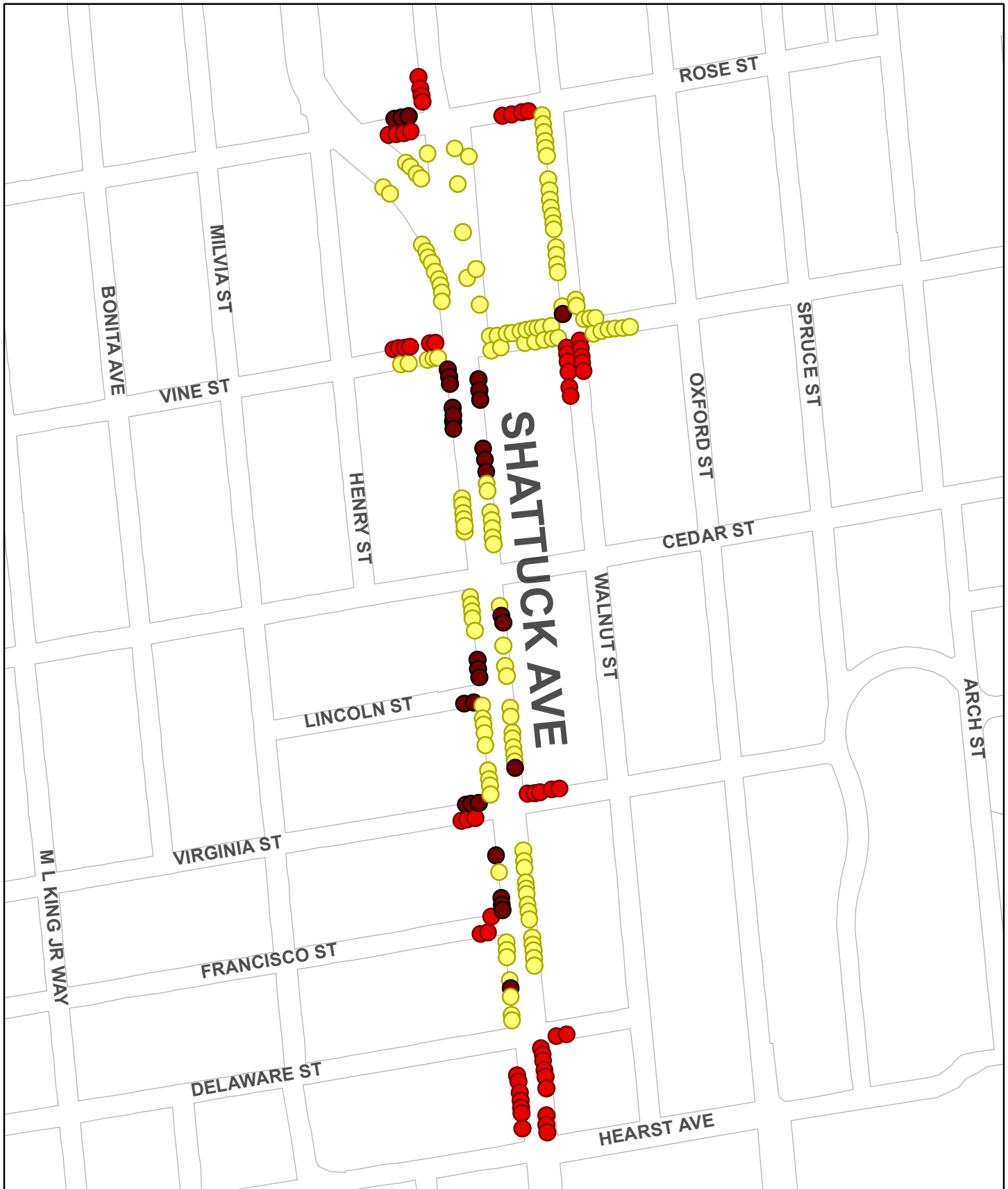
Pursuant to Government Code Section 6062a

~~~~~  
I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on October 17, 2019.

Mark Numainville, City Clerk

North Shattuck Parking Meter Area

Parking Meter Time Limits: ● 30 min ● 1 hour ● 2 hour





Office of the City Manager

ACTION CALENDAR

October 29, 2019

(Continued from October 15, 2019)

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Kelly Wallace, Interim Director, Health, Housing and Community Services
 Subject: Referral Response: Lava Mae Mobile Shower and Hygiene Services

INTRODUCTION

In response to two separate Council referrals, this report provides information on the City's ongoing collaboration with the nonprofit organization Lava Mae to provide the City's homeless community with access to mobile showers and hygiene services.

CURRENT SITUATION AND ITS EFFECTS

This report responds to two referrals: 1) referral # DMND0002483 that originally appeared on the agenda of the May 26, 2015 Council meeting and was sponsored by Councilmember Droste; and 2) a short term referral from the City Council that originally appeared on the agenda of the November 13, 2018 Council meeting and was sponsored by Councilmembers Davila and Hahn.

Coordinating mobile hygiene efforts in partnership with Lava Mae is a Strategic Plan Priority Project, advancing our goal to provide housing support services for our most vulnerable community members.

Staff from HHCS and Public Works coordinated with Lava Mae staff to select two pilot sites for mobile hygiene stations: West Berkeley at Second Street and Cedar Street (adjacent to the STAIR Center) and South Berkeley at the Progressive Baptist Church parking lot on Alcatraz Avenue and King Street (one block from Adeline Street). These sites were selected using several criteria: proximity to current encampments, geographic distribution across the city, ability to accommodate Lava Mae's truck and trailer and the access to necessary water and sewer infrastructure.

Lava Mae established weekly service beginning in May 2019, serving the South Berkeley site on Mondays and the West Berkeley site on Thursdays. Staff notified the service providers in the North County Coordinated Entry System and Lava Mae did direct outreach to local residents, businesses and encampments in proximity to the pilot sites. The South Berkeley location is averaging eight guests per service time (48 showers total) and the West Berkeley site is averaging seven guests (47 showers total).

Lava Mae noted typically by this point they are averaging 20 guests per location. Lava Mae and HHCS staff are working together to identify ways to improve and increase outreach and consider alternative options for pilot sites that may better reach the community, including the safe parking site as appropriate.

BACKGROUND

Lava Mae is a nonprofit organization founded in 2013 that provides mobile hygiene services, including hot showers, to homeless community members in the Bay Area and Los Angeles. They've served over 19,000 guests and provided over 69,000 showers since their launch. They've recently innovated one-stop "Pop-Up Care Villages" to dramatically expand access to essential services for people living on the streets.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

POSSIBLE FUTURE ACTION

The City could consider entering into a Memorandum of Understanding with Lava Mae to coordinate and improve services and outreach for the local homeless community. The City could also consider hosting one of Lava Mae's "Pop Up Care Village" which brings in partners to provide expanded services including food, clothing, haircuts, animal care, vaccines, health screenings and access to legal and social services.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Lava Mae provides services free of charge to Berkeley residents. There are costs associated with the staff time required to conduct outreach, coordinate services and ensure water and sewer infrastructure is working properly.

CONTACT PERSON

Mike Uberti, Community Development Project Coordinator, HHCS, (510) 981-5114.

Attachments:

- 1: Original Referral Report #1 from May 26, 2015: Mobile Shower Referral
- 2: Original Referral Report #2 from November 13, 2018: Short-term referral to City Manager to complete steps necessary to establish Lava Mae services in Berkeley



CONSENT CALENDAR

May 26, 2015

To: Honorable Mayor and Members of the City Council

From: Councilmember Lori Droste

Subject: Mobile Shower Referral

RECOMMENDATION

Refer to the Homeless Commission and City Manager the establishment of a mobile shower unit in Berkeley and assess the feasibility/cost of such a project in comparison to existing programs.

BACKGROUND

In 2009, Berkeley had 680 people without permanent housing. With its large homeless population, Berkeley could benefit from a mobile shower program. The City’s website currently lists two locations for showers available to the homeless- one in the downtown area, and one in Willard Park. A mobile shower unit could potentially serve more people in a more efficient manner.

The City of San Francisco has been developing a mobile shower program in conjunction with Lavamae.org. The program is housed in a former MTA bus and can serve multiple people in different communities every day. Lavamae.org offers resources, budgets, and outlines for replicating their project. This referral would use those resources and documents, as well as other information, to outline the feasibility of creating a similar model in Berkeley.

FINANCIAL IMPLICATIONS

Staff time

ENVIRONMENTAL SUSTAINABILITY

N/A

CONTACT PERSON

Councilmember Droste, 510-981-7180



Cheryl Davila
Councilmember
District 2

ACTION CALENDAR
November 13, 2018

To: Honorable Mayor and Members of the City Council
From: Councilmembers Cheryl Davila and Sophie Hahn
Subject: Short-term referral to City Manager to complete steps necessary to establish Lava Mae services in Berkeley

RECOMMENDATION

Short-term referral to the City Manager to coordinate with Fire, Planning and Public Works Department Heads to provide permits, identify locations and allow access to water and disposal hook-ups necessary to bring Lava Mae shower services to Berkeley's homeless populations within 90 days for a 6-8 week pilot.

This includes:

- Determining locations to set up portable shower (Possible locations will be identified by the City of Berkeley Homeless Service Team but could include 2180 Milvia Parking Lot, Adeline & Alcatraz behind Here/There encampment, Harrison and 8th, the Corporation Yard and/or Jones and 2nd.)
- Identifying water source for hook ups designated to dispense water for showers, either fire hydrants (preferred) or garden hose spigots
- Parking permits for shower trailer
- Identifying sewage manholes designated to pump out/dump gray and black water (H₂O) into the sewer system
- Calendaring a Fire Department inspection to inspect the propane to heat up the H₂O on the first day of operation or through a dry run.

Starting January 2019, Lava Mae is prepared to bring shower service two days a week to two consistent locations (one day per a location) at no charge to the City of Berkeley or the users of the services. The proposal is to start with an 8-week pilot in two locations to test sites.

BACKGROUND

Lava Mae brings critical services to the streets to rekindle dignity and hope for people experiencing homelessness through their Mobile Hygiene Service and Pop-Up Care Villages. Doniece Sandoval founded Lava Mae in 2013 when she began by converting public transportation buses into showers and toilets on wheels to deliver hygiene and

rekindle dignity for our unhoused neighbors in San Francisco. Lava Mae has expanded their shower services to Oakland and Los Angeles, serving 15,000+ guests who have taken 52,000+ showers in mobile units across Los Angeles and the Bay Area.

Lava Mae also organizes day-long Pop-Up Care Villages that bring much needed essential services like dental care, holistic health services, haircuts, clothing and hot food offered in a friendly, community setting with art and live music. In addition, they have inspired 100+ new mobile hygiene programs across the United States and around the world, and launched the first-ever open source toolkit and platform to help people everywhere replicate their mobile hygiene service in their own communities.

Lava Mae has raised all of the funds needed to run their program through private sources. Therefore, all of Lava Mae's services are offered free of charge to those utilizing them and to the cities hosting their services. In order to provide these services, Lava Mae needs support in identifying water hook-up, disposal locations, and parking locations; and the required city permits. Anonymous demographic information collected by Lava Mae will be shared with the City of Berkeley. Lava Mae has secured a permit and meter from EBMUD to latch into hydrants.

FISCAL IMPACTS OF RECOMMENDATION

Lava Mae covers all costs. Lava Mae has a construction meter from EBMUD, which typically cost \$20 per service day for six hours of service water.

The cost to the City is staff time to issue permits, inspect propane system, and identify ideal locations for water hook ups, parking and sewer manholes for pump outs. The cost for the water could be absorbed by the City for approximately, two thousand dollars, annually to provide much needed shower services.

ENVIRONMENTAL SUSTAINABILITY

Bringing Lava Mae to Berkeley will increase public health of those who are homeless by providing access to clean showers, health and sanitation services. Lava Mae expanding its services to Berkeley can also be a resource in case of a climate emergency event or an earthquake if people lack access to home showers.

CONTACT PERSON

Cheryl Davila, Councilmember District 2 510.981.7120

ATTACHMENTS & LINKS:

- Lava Mae details
- Lava Mae Pop-Up Care Village flyer
- [Lava Mae website](#)
- Video testimonies:
 - <https://youtu.be/rmpBGWEmYWk>
 - <https://youtu.be/Sa2xnW31q0s>



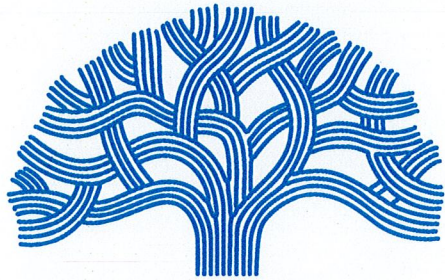
Lava Mae is a San Francisco based non-profit that brings critical services to the streets - delivered with an unexpected level of care we call Radical Hospitality - to rekindle dignity and hope for people experiencing homelessness through our Mobile Hygiene Service, Pop Up Care Villages, and BuildIt Toolkit for replication of our services.

We come equipped with a mobile hygiene trailer with three individual and private stalls featuring full bathrooms. One is ADA accessible and designed for ease of use with wheelchair access. We provide all necessary hygiene items including fresh towels, socks, soap, shampoo/conditioner, moisturizer, razors, toothbrush/toothpaste, and many more. Our services are 5 ½ hours long of actual shower time and each guest gets 15-20 minutes. We typically serve anywhere from 30-50 guests in a day. **We cover all of the costs associated with providing our services.**

In order to operate Lava Mae, we need:

- **Parking:** Our truck and trailer total 40 ft in length which is about 2 parking spaces long. We need a City-sanctioned parking location and permit.
- **Water source:** We have an EBMUD hydrant meter so most hydrants will work depending on the fitting or adapter needed. We can also hook to a standard garden hose faucet bibb. We need the City to identify water hook-ups.
- **Sewage Manhole Dumping:** Our trailer comes with a 330 gallon black/greywater tank that needs to be dumped twice per a day of service. Preferably somewhere within a few blocks and relatively safe. We need the City to identify and approve a manhole for this use. The dumping process takes no more than 10-15 minutes.

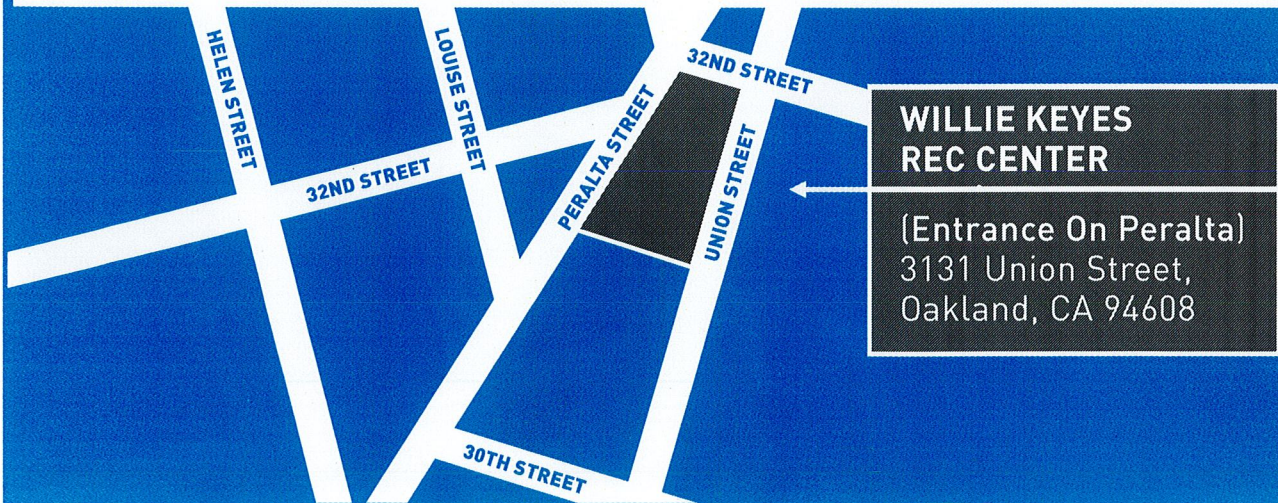
lava mae



POP-UP CARE VILLAGE OAKLAND

Tuesday, October 30th, 11am - 4pm

Hot Food, Clothing, Haircuts, Art, Medical,
Live Music & More



ORDINANCE NO. 7,668-N.S.

REPEALING AND REENACTING BERKELEY MUNICIPAL CODE CHAPTER 13.104,
WAGE THEFT PREVENTION

Section 1. That Berkeley Municipal Code Chapter 13.104 is hereby repealed and reenacted as follows:

Chapter 13.104
WAGE THEFT PREVENTION

Sections:

- 13.104.010 Findings.
- 13.104.020 Definitions.
- 13.104.030 Pay Transparency Acknowledgments from Permit Applicant, Contractor, and Qualifying Subcontractor.
- 13.104.040 Pay Transparency Attestations Following Project Completion.
- 13.104.050 Posting of Ordinance.
- 13.104.060 Determination of Construction Pay Transparency Compliance.
- 13.104.070 Issuance of a Certificate of Occupancy.
- 13.104.080 Private Right of Action.
- 13.104.090 City Manager Regulations.
- 13.104.100 Severability.

13.104.010 Findings.

A. The City of Berkeley is committed to protecting the public health, safety and welfare. The construction industry involves unique labor standards compliance challenges. Construction workers who do not receive all of their wages and mandatory benefits are likely to discover that despite the best efforts of State enforcement officials, many employees continue to be victims of wage theft because they are unaware of their rights or the State lacks adequate resources to advocate on their behalf. General contractors and Developer/Owners who receive City-issued permits and licenses and who benefit from the construction workers' labor may disclaim responsibility for making underpaid workers whole.

B. Testimony presented to the State of California's "Little Hoover" Commission stated that existing studies suggest that "the underground economy" is at least a \$10 billion problem in California. Statewide, the construction industry is the industry with the second highest level of labor standards violations (as measured by State Labor Commissioner penalty assessments), surpassed only by the restaurant industry. Deputy Labor Commissioners conducted 985 inspections in the private construction industry in 2012-13, yielding 595 citations that assessed \$5.3 million in penalties. Enforcement actions, however, are dwarfed by the number of contractors and projects in California, including projects in Berkeley. Over 300,000 state-licensed contractors performed about \$48 billion worth of private construction work in the State in 2014. The mismatch between the resources of the State and the scope of the issue of fundamental wage projections through disclosure and transparency requires the involvement of local

government police powers.

C. Assembly Bill 469, also known as the Wage Theft Protection Act of 2011, went into effect on January 1, 2012, adding section 2810.5 to the Labor Code. The act requires that all employers provide each employee with a written notice containing specified information at the time of hire.

D. This Chapter will ensure compliance with the Wage Theft Protection Act of 2011 by requiring confirmation by owners, contractors and subcontractors of the rate of pay and other legally required information regarding mandatory and voluntary fringe benefits pursuant to Labor Code section 2810.5.

13.104.020 Definitions.

Whenever used in this chapter, the following terms shall have the meanings set forth below.

A. "City" shall mean the City of Berkeley.

B. "Completion of the project" means that construction is complete and the project is eligible for a Certificate of Occupancy or Temporary Certificate of Occupancy.

C. "Contractor" shall mean the prime contractor for the Project.

D. "Labor Commissioner" shall mean the Office of the Labor Commissioner within the State of California's Department of Industrial Regulations.

E. "Owner" shall mean the person or persons, firm, corporation or partnership exercising ownership of the Project.

F. "Permit Applicant" shall mean Owner, developer, or Contractor who applied for the building permit for the Project.

G. "Project" shall mean a new construction project of greater than 30,000 square feet that is not subject to local, state or federal prevailing wage requirements or does not have a valid Project Labor or Community Workforce Agreement.

H. "Project construction employees" shall mean employees of the Contractor or Subcontractor.

I. "Qualifying Subcontractor" shall mean a subcontractor of any tier whose portion of the work exceeds \$100,000 or one percent (1%) of the value of the construction cost of the Project.

J. "Responsible Representative" shall mean an officer (if a corporation), general partner (if a partnership or a limited partnership), managing member (if a limited liability company) or qualifying person associated with the Owner, contractor and/or subcontractor. A qualifying person is defined in Section 7068 of the California Business and Professions Code.

13.104.030 Pay Transparency Acknowledgments from Permit Applicant, Contractor, and Qualifying Subcontractor.

A. Within 30 days of issuance of a building permit, the Permit Applicant shall provide to the City a Permit Applicant Pay Transparency Acknowledgment on a form approved by the City for this purpose. The form shall include an attestation under penalty of perjury under the laws of the State of California by a Responsible Representative of the Permit Applicant that: (i) the Permit Applicant has reviewed Chapter 13.104 of the Berkeley

Municipal Code; and (ii) following Project completion, if the City cannot make a finding of compliance with the provisions of this Chapter pursuant to section 13.104.060, the Permit Applicant will be responsible for demonstrating either (a) compliance with Labor Code sections 226 and 2810.5 or (b) the existence of a Labor Payment or a Lien Release Bond(s) pursuant to 13.104.070(B).

B. Within 30 days of the issuance of a building permit if the Contractor(s) and Qualifying Subcontractors have been selected by that date, but in any event no later than the Contractor or Qualifying Subcontractor's first day of work on the Project, for each Contractor and Qualifying Subcontractor, the Permit Applicant shall provide to the City a Contractor Pay Transparency Acknowledgment on a form approved by the City for this purpose. On each Contractor Pay Transparency Acknowledgment, a Responsible Representative of the Contractor or Qualifying Subcontractor must attest under penalty of perjury under the laws of the State of California, that: (i) the Contractor or Qualifying Subcontractor has reviewed Chapter 13.104 of the Berkeley Municipal Code; and (ii) either (a) Project construction employees will receive Labor Code Section 2810.5 compliant notices and Labor Code Section 226(a) compliant itemized wage statements, or (b) Project construction employees meet one or more of the criteria of Labor Code section 2810.5(c).

13.104.040 Pay Transparency Attestations Following Project Completion.

Within 10 days of the completion of the Project, for each Contractor and Qualifying Subcontractor, Permit Applicant shall provide to the City a Pay Transparency Attestation on a form approved by the City for this purpose. On each Pay Transparency Attestation, a Responsible Representative of the Contractor or Qualifying Subcontractor must attest under penalty of perjury under the laws of the State of California that: (i) the Contractor or Qualifying Subcontractor complied with Chapter 13.104 of the Berkeley Municipal Code; and (ii) either (a) Project construction employees received complete and accurate information pursuant to Labor Code Sections 226 and 2810.5, or (b) Project construction employees met one or more of the criteria of Labor Code section 2810.5(c).

13.104.050 Posting of Ordinance.

Each day work is performed on the Project, the Permit Applicant shall post and keep posted in a conspicuous location frequented by Project construction employees, and where the notice may be easily read by Project construction employees during the hours of the workday, a notice that: (i) contains the text of Chapter 13.104 of the Berkeley Municipal Code; (ii) explains that workers can report violations of Labor Code sections 226 and 2810.5 to the Labor Commissioner of the State of California; and (iii) provides current contact information, including office address, telephone number, and email address of the Labor Commissioner of the State of California.

13.104.060 Determination of Construction Pay Transparency Compliance.

Prior to approval of a Certificate of Occupancy for the Project, the City shall make a finding of compliance with the provisions of this Chapter. Such finding shall be issued if: (i) the City determines after review of the information provided pursuant to

sections 13.104.030 and 13.104.040 that the Permit Applicant, Contractor and all Qualifying Subcontractor(s) have complied with the provisions of this Chapter; and (ii) the City has not received any information that a complaint is pending before the Labor Commissioner, or that the Labor Commissioner has issued a final order of enforcement, regarding violations of Labor Code Sections 226 or 2810.5 by any Contractor or Qualifying Subcontractor at the Project.

13.104.070 Issuance of a Certificate of Occupancy.

A. The City shall issue a Certificate of Occupancy to the Permit Applicant if it makes a finding of Construction Pay Transparency Compliance pursuant to 13.104.060 and all requirements of the building code are met.

B. If the City cannot make a finding of compliance with the provisions of this Chapter pursuant to section 13.104.060 , the City will approve a Certificate of Occupancy only if:

- (i) the Permit Applicant demonstrates that the Permit Applicant, Contractor, and all Qualifying Subcontractors have complied with Labor Code sections 226 and 2810.5; or
- (ii) the Permit Applicant demonstrates the existence of a Labor Payment or a Lien Release Bond(s) for the Project. The bond shall be in an amount equal to 20 percent of the combined value of the contract(s) of all Contractor(s) and/or Qualifying Subcontractor(s) for which the City lacks Pay Transparency Acknowledgment or Attestations, or 125 percent of the amount of any Project-related, Labor Commissioner issued Civil Wage and Penalty Assessment(s) or mechanics lien(s), whichever is greater.

13.104.080 Private Right of Action.

Nothing in this chapter shall be interpreted to authorize a right of action against the City.

13.104.090 City Manager Regulations.

The City Manager may promulgate regulations for the administration and enforcement of this Chapter.

13.104.100 Severability.

If any word, phrase, sentence, part, section, subsection, or other portion of this chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

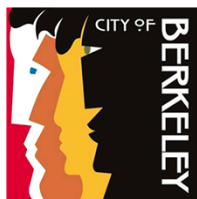
Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on June 11, 2019, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

Absent: None.



CITY COUNCILMEMBER
RIGEL ROBINSON
 DISTRICT 7

ACTION CALENDAR

October 29, 2019

(Continued from October 15, 2019)

To: Honorable Mayor and Members of the City Council

From: Councilmember Rigel Robinson, Mayor Jesse Arreguin, and
 Councilmember Kate Harrison

Subject: Referral: Telegraph Shared Streets

RECOMMENDATION

Refer to the City Manager to develop and return to Council with a plan to implement the shared streets proposal outlined in the Telegraph Public Realm Plan, including identification of potential regional funding sources for the project.

BACKGROUND

The Telegraph Public Realm Plan (TPRP), approved by the Council in 2016 after extensive input from community members such as vendors, merchants, property owners, and representatives from UC Berkeley and AC Transit, establishes a vision and provides guidance for a shared street on the first four blocks of Telegraph Avenue.

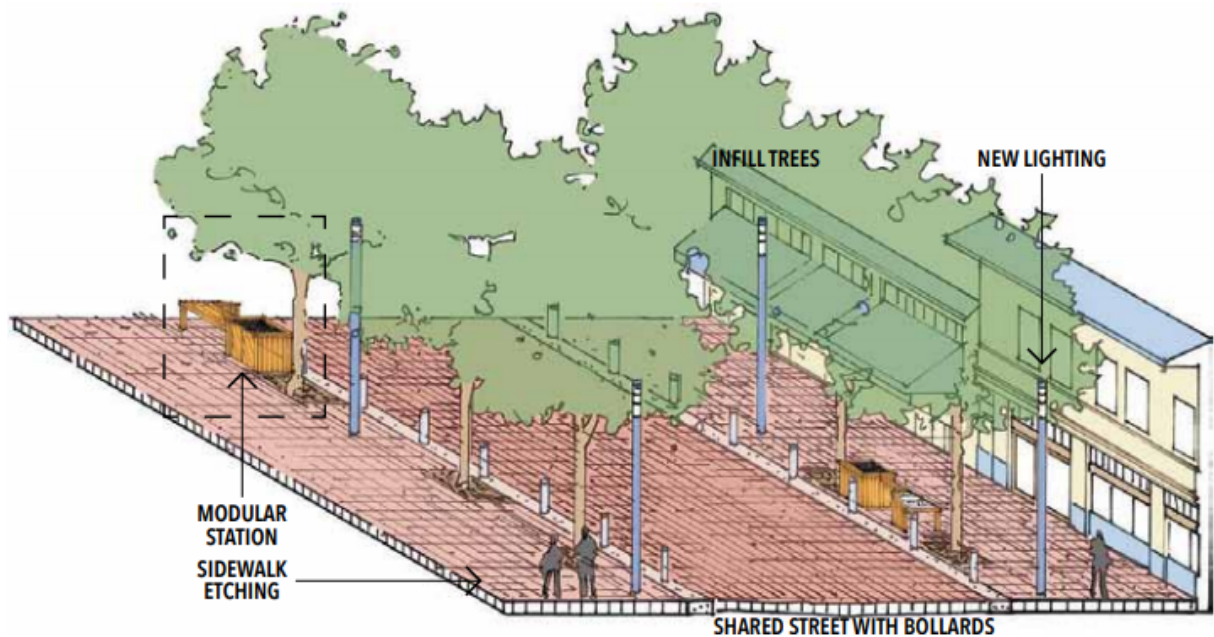
Telegraph Avenue serves as a hub for shopping, dining, music, and nightlife, attracting everyone from students to long-time residents to tourists. Yet, the poor condition of its sidewalks and other public realm elements show that infrastructure improvements have not kept pace. The streetscape has not seen a comprehensive overhaul since the 1970s, demonstrating the need for renewed investment in the area.

The concept of shared streets dates back to before the twentieth century, prior to the invention of modern cars. Most streets were shared between bicycles, carriages, and pedestrians, with minimal delineation between areas for separate transportation modes. As cars became the primary mode of transportation for the majority of Americans, street design standards shifted to prioritize drivers at the expense of bicyclists and pedestrians. Starting in the 1960s, the livable streets movement began to grow as a pushback to auto-centric design. While shared streets are more ubiquitous in European countries, similar projects are becoming more common in the United States. Perhaps most famously, New York City's Times Square was recently transitioned to a pedestrian plaza.¹

As proposed in the TPRP, the stretch of Telegraph Avenue between Dwight and Bancroft is an ideal location for a shared street because of its high foot traffic. Telegraph serves as both one of the main entrances to the UC Berkeley campus and a major

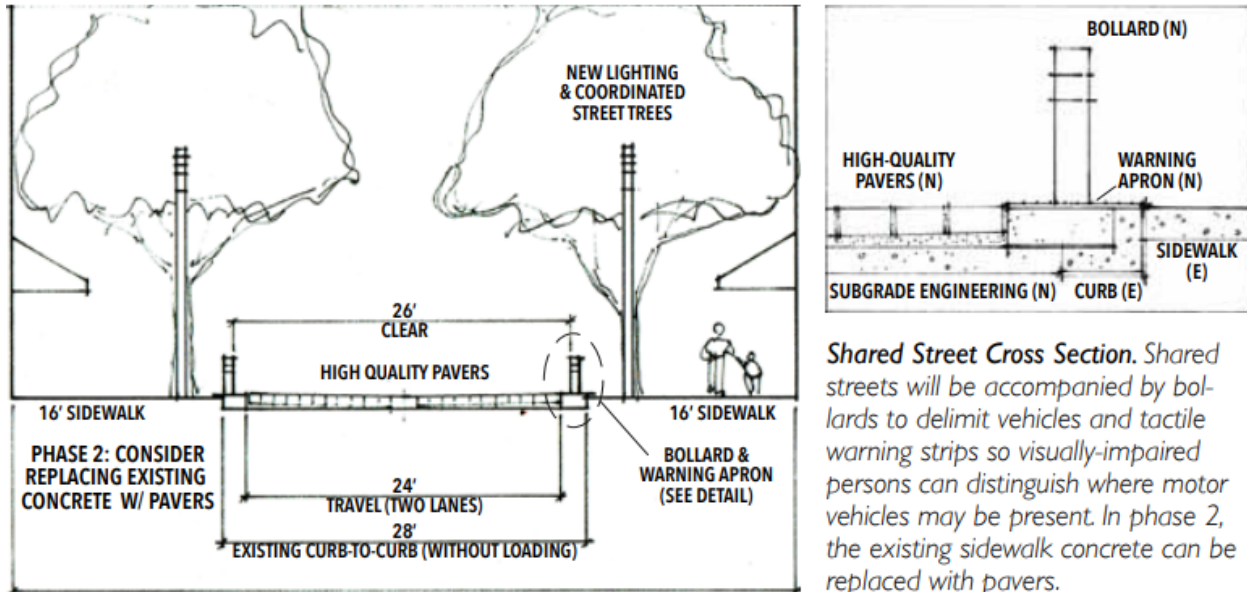
¹ <https://ny.curbed.com/2017/4/19/15358234/times-square-snohotta-before-after-photos>

commercial hub, complete with restaurants, retailers, and more. In a May 2016 study, UC Berkeley found that only 6 percent of students drive to school, while 77 percent walk and 17 percent bike or use public transit.² Merchants on Telegraph would also benefit from a shared street layout, which encourages foot traffic and emphasizes interactions with local businesses and street vendors over through traffic.



Ultimate Condition. TRPR proposes a plaza-like shared street and new lighting as a final phase. Sidewalk etching may remain or, if necessary, sidewalks can be replaced.

² https://opa.berkeley.edu/sites/default/files/where_berkeley_students_live_0.pdf



This shared streets initiative is deeply similar to what the City of Seattle implemented with its Bell Street Park project in 2014. The City of Seattle's Department of Parks and Recreation and Department of Transportation converted Bell Street, one of the busiest avenues in the city, into a shared street, with similar aesthetic and pedestrian-focused changes to those proposed in the TPRP. In order to further incentivize public transit usage, the City does not allow cars to travel more than one block on Bell Street, while buses can travel straight through unhindered.³

³ <https://nacto.org/case-study/bell-street-park-seattle/>



Bell Street, during and shortly after construction.

Additionally, the City of Los Angeles' Great Streets initiative has adopted multiple aspects of shared streets into its renovations of major thoroughfares, seeing both fiscal and popular success. One of the most prominent examples of this has been the Venice Boulevard Great Streets project. In 2016, the city refurbished a 0.8 mile stretch of Venice in Mar Vista with bollard-protected bike lanes, restored and decorated sidewalks, commissioned murals, and parklets on the sidewalks and in medians.

In the first year of the Venice Boulevard Great Street, business and popular opinion have improved, with minimal impact on traffic. Economic activity increased by \$3.3 million and transactions in which customers spent ten dollars or more jumped from 50 percent to 70 percent.⁴ A 2018 survey of the community showed an uptick in public opinion of the neighborhood after the renovation, as the following statistics--which refer to the number of respondents answering "strongly agree" to the statements given--illustrate:

- "The neighborhood is safe" increased from 10% to 46%
- "The neighborhood is active and lively" increased from 6% to 45%
- "The neighborhood is clean and well-maintained" increased from 7% to 35%.⁵

⁴https://static1.squarespace.com/static/595fd8fa5016e119d794e4b1/t/5c1c0c3fcd836656561d106f/1545342048197/VeniceBlvd_1-Year_Report_FINAL_.pdf

⁵ ibid

Additionally, the busiest intersection in the Great Streets stretch, Venice Boulevard and Centinela Avenue, saw a 75 percent reduction in collisions since the project's completion.⁶

Converting Telegraph Avenue into a shared street would make the corridor more appealing to consumers and safer for pedestrians. This vision has similarities to other successful projects, such as the Bell Street Park shared street and the Venice Boulevard Great Street. These case studies highlight additional benefits of a shared street, such as improvements in public opinion and increases in economic activity. The City of Berkeley should move forward with the recommendations made in the TPRP and begin securing the funding needed to put this plan into action by assessing potential regional grant opportunities and partnerships with relevant entities such as UC Berkeley.

FINANCIAL IMPLICATIONS

\$5,787,150 for all four blocks according to the 2016 Telegraph Public Realm Plan, with adjustments for inflation and rising construction costs. The City should explore all funding options, including and especially regional grant opportunities.

ENVIRONMENTAL SUSTAINABILITY

The Telegraph Public Realm Plan shared streets proposal aligns with the City of Berkeley Climate Action Plan to reduce emissions and make "sustainable mobility modes...the primary means of transportation for Berkeley residents and visitors."⁷ In prioritizing pedestrians, bicyclists, and public transit, this initiative directly works towards these goals.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170
Liam Howell, Intern

Attachments:

1: Telegraph Public Realm Plan: <https://www.berkeleyside.com/wp-content/uploads/2016/09/Telegraph-Public-Realm-Plan-Final-Low-Res.pdf>

⁶ ibid

⁷ <https://www.cityofberkeley.info/climate/>

ACTION CALENDAR

October 29, 2019

(Continued from October 15, 2019)

To: Honorable Mayor and Members of the City Council

From: Councilmembers Rigel Robinson, Lori Droste, Kate Harrison, and Mayor Jesse Arreguin

Subject: Referral: Develop a Bicycle Lane and Pedestrian Street Improvements Policy

RECOMMENDATION

Refer to the City Manager to develop a comprehensive ordinance governing a Bicycle Lane and Pedestrian Street Improvements Policy that would:

- Require simultaneous implementation of recommendations in the City's Bicycle and Pedestrian Plans when City streets are repaved, if one or more of the following conditions are met:
 - Bicycle Plan recommendations can be implemented using quick-build strategies that accommodate transit operations.
 - Pedestrian Plan recommendations can be implemented using quick-build strategies that accommodate transit operations.
 - The Bicycle Plan recommends studying protected bike lanes as part of a Complete Street Corridor Study in the Tier 1 Priority list.¹
 - Improvements are necessary to comply with the Americans with Disabilities Act.
- Prioritize bikeways and Vision Zero high-fatality, high-collision streets under the five-year Paving Plan by requiring that 50 percent of the repaving budget go towards such streets until they meet a minimum surface standard established with input from the Public Works and Transportation Commissions.
- Encourage the use of quick builds by expediting quick-build projects under \$1 million.
 - "Quick-build" is defined as projects that a) require non-permanent features such as bollards/paint/bus boarding islands, b) make up less than 25 percent of the total repaving cost for that street segment, and c) can be a component of a Complete Street Corridor Study that includes evaluation after installation.
- Require staff to report progress back to Council every two years.

¹ [https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley-Bicycle-Plan-2017_AppendixE_Project%20Recs%20Priorities\(1\).pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley-Bicycle-Plan-2017_AppendixE_Project%20Recs%20Priorities(1).pdf)

Furthermore, refer to the City Manager to draft a revised version of the City's Complete Streets Policy that would clarify that the presence of an existing or planned bikeway parallel to an arterial does not exempt projects along said arterial from bicycle and micromobility improvements under the Policy.

BACKGROUND

Bicycle lanes decrease conflict between different modes of transportation, promoting safe streets for both motorists and bicyclists. A 2012 study found that protected bike lanes are the strongest indicator of lower fatality and injury rates. Where bike lanes were most abundant, fatal crash rates dropped by 44 percent and injury rates dropped by 50 percent.² Another study showed that bike lanes improve safety for motorists because drivers who pass bicyclists on unmarked roads tend to veer farther into the next lane of traffic. Similarly, bicyclists on unmarked roads tend to hug the curb, increasing their risk of injury.³

Recently, the Cities of Cambridge and San Francisco have implemented policies that streamline the process of adding bike lanes to their streets. Cambridge's new ordinance, passed in April 2019, requires that any streets undergoing improvement per the City's paving plan must also be upgraded per the City's bike plan.⁴ This law ensures that new, protected bicycle lanes get built regularly, and furthers the City's goal of improving accessibility and safety for bicyclists.

In June 2019, San Francisco passed a quick-build policy allowing the City Traffic Engineer to approve reversible and/or adjustable parking and traffic modifications that previously required approval by the SFMTA Board of Directors.⁵ This policy encompasses bike lanes, in addition to street improvements such as painted safety zones, changes to the configuration of traffic lanes, and roadway and curb paint.

In September 2019, the City of Seattle passed an ordinance mandating that when a paving project over \$1 million is slated for a street that is meant to be upgraded to a protected bike lane per the City's Bicycle Master Plan, the two projects must be done simultaneously.⁶ This policy is a hybrid of the San Francisco and Cambridge models.⁷

According to the City of Berkeley's Bicycle Plan, Berkeley has the fourth highest bicycle commute mode share in America, at 8.5 percent. Nearly one in ten residents rides a

² <https://www.citylab.com/transportation/2019/06/protected-bike-lanes-safe-street-design-bicycle-road-safety/590722/>

³ <https://bicycleuniverse.com/bicycle-lanes-no-brainer/>

⁴

<http://cambridgema.iqm2.com/Citizens/FileOpen.aspx?Type=4&ID=5905&highlightTerms=cycling%20safety%20ordinance>

⁵ [https://www.sfmta.com/sites/default/files/reports-and-documents/2019/06/6-4-](https://www.sfmta.com/sites/default/files/reports-and-documents/2019/06/6-4-19_item_11_quick_build_projects_-_transportation_code_amendment_resolution.docx_.pdf)

[19_item_11_quick_build_projects_-_transportation_code_amendment_resolution.docx_.pdf](https://www.sfmta.com/sites/default/files/reports-and-documents/2019/06/6-4-19_item_11_quick_build_projects_-_transportation_code_amendment_resolution.docx_.pdf)

⁶ <https://www.seattletimes.com/seattle-news/transportation/seattle-city-council-approves-new-bike-lane-requirements-calls-for-more-bike-lane-funding/>

⁷ <http://seattle.legistar.com/LegislationDetail.aspx?ID=4078670&GUID=2AE8E905-1F17-4ED2-B9C2-3207591B92F6>

bicycle to work as their primary mode of transportation. As a result of Berkeley's high bicycle mode share and the City's insufficient bike infrastructure, there were 133 bicycle collisions in 2018.⁸ Fear of injury is a significant deterrent to bicycling. A record 90 percent of Berkeley residents would consider bicycling under the right roadway conditions, demonstrating how important bikeway improvements are for increasing Berkeley's bicycle mode share.⁹

Additionally, as the City prepares for the introduction of shared electric scooters, it is appropriate and necessary to prioritize bike lane and pedestrian upgrades. Micromobility plays an important role in the future of transportation. Our approach to street improvements should reflect the growing population that uses alternative methods of transportation to get around our city.

Improving Berkeley's bike and pedestrian infrastructure is also an effective way to combat climate change. The City's Climate Action Plan calls for sustainable mobility modes, such as cycling, to become the primary means of transportation for Berkeley residents and visitors.¹⁰ Adding new cycling facilities gives residents a safe alternative to driving, which reduces car usage and greenhouse gas emissions.¹¹

This ordinance would prioritize bikeways and Vision Zero streets in the Paving Plan. Analysis of Berkeley's draft 2020-2024 Paving Plan shows that 23 percent of the repaving budget and 36 percent of street miles currently go towards streets that include bikeways. Upgrading high-fatality, high-collision streets, as defined in the forthcoming Vision Zero Action Plan, is consistent with the City's goal of eliminating traffic deaths in Berkeley. In July 2019, Council adopted Resolution No. 68,371 "In Support of Vision Zero," which created a City policy to prioritize high-collision streets as the City develops work plans and carries out infrastructure improvements. Adopting a quick-build policy and requiring simultaneous street upgrades would reduce delays, ensuring the timely implementation of the Bicycle and Pedestrian Plans.

This item also directs the City Manager to draft a revised version of the City's Complete Streets Policy, which currently provides an exemption from the Policy for when a "reasonable and equivalent project along the same corridor is already programed to provide facilities exempted from the project at hand."¹² This language serves as a potential obstacle to adding bike infrastructure along arterials that run parallel to existing bikeways.

ACTIONS/ALTERNATIVES CONSIDERED

⁸ <https://tims.berkeley.edu/login.php?next=/tools/query/summary.php>

⁹ https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley-Bicycle-Plan-2017-Executive%20Summary.pdf

¹⁰ https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/BCAP%20Exec%20Summary4.9.09.pdf

¹¹ <https://www.sciencedirect.com/science/article/pii/S136192091630270X>

¹² https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley%20Complete%20Street%20Resolution%2012%2011%2012.pdf

The Council could choose to maintain the current structure for repaving streets which takes bikeways into consideration, but does not prioritize such streets. Berkeley's current bike plan recommends "complete street corridor studies" to determine how to add protected bike lanes on major streets.

The Council could also choose to follow Seattle's model, which would require that when repaving is done on streets that are slated for full protected bike lanes (as opposed to *any* upgrades per the Bicycle Plan), the two improvements happen together.

FINANCIAL IMPLICATIONS

Staff time.

ENVIRONMENTAL SUSTAINABILITY

Transportation accounts for 60 percent of Berkeley's community-wide GHG emissions. Improved bicycle and pedestrian infrastructure promotes sustainable, zero-emission methods of transportation, which is key to reaching the City's target of reducing GHG emissions by 80 percent below 2000 levels by 2050. The actions outlined in the referral are in line with the City's Climate Action Plan, which envisions "public transit, walking, cycling, and other sustainability modes" as the "primary means of transportation for Berkeley residents and visitors."¹³

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

Attachments:

1: City of Cambridge Ordinance Language

¹³ <https://www.cityofberkeley.info/climate/>

In the Year Two Thousand and Nineteen

AN ORDINANCE In amendment to the Ordinance entitled “Cambridge Municipal Code.”

That the Municipal Code of the City of Cambridge be amended by adding in Title Twelve entitled “Streets, Sidewalks and Public Places” a new Chapter 12.22 entitled “Cycling Safety Ordinance,” which reads as follows:

Chapter 12.22 Cycling Safety Ordinance

Section 12.22.010 Short Title

This Chapter may be cited as the "Cycling Safety Ordinance" of the City of Cambridge.

Section 12.22.020 Purpose

This Chapter seeks to eliminate fatalities and injuries on City streets in accordance with the City's Vision Zero goals through safety improvements and the construction of a connected network of permanent separated bicycle lanes across the City.

Section 12.22.030 Definitions

- A. “Adequate Directionality” shall mean (1) a two-way street with a separated bicycle lane or lanes that allow bicycle travel in both directions, or (2) a one-way street with a separated bicycle lane or lanes that allow bicycle travel either in the direction of the flow of vehicular traffic or in both directions.
- B. “Connectivity” shall mean the provision of a Permanent Separated Bicycle Lane system that reflects desired routes between all major origins and destinations in the city.
- C. “Cambridge Bicycle Plan” shall mean the plan adopted by the City of Cambridge in October 2015 to create a framework for developing a network of complete streets, and which is entitled “Cambridge Bicycle Plan: Toward a Bikeable Future”.
- D. “Five-Year Sidewalk and Street Reconstruction Plan” shall mean the City of Cambridge Department of Public Works’ five-year work plan of May 1, 2018, as it may be amended from time to time.
- E. “Improvements” shall mean the construction of new City-owned streets, or the reconstruction of an existing City-owned street, including but not limited to full depth reconstruction, expansion, and/or alteration of a roadway or intersection. Improvements shall not include routine maintenance, repairs, restriping of the road surface, or emergency repairs to the surface of a roadway (collectively “Maintenance”), provided that existing bicycle lanes will be restored to existing conditions or better.
- F. “Permanent Separated Bicycle Lane” shall mean a bicycle lane separated from motor vehicle traffic by a permanent vertical barrier that shall remain in place year-round,

including but not limited to granite or concrete barriers and raised curbs, provided, however, that the bicycle lane need not be separated from motor vehicle traffic by a permanent vertical barrier for short stretches to accommodate crosswalks, curb cuts, accessible parking, intersections, and public transportation, and provided further, that existing bicycle lanes may be temporarily removed during construction of Improvements or Maintenance, so long as they are restored to existing conditions or better.

G. "Separated Network" shall mean the proposed set of bicycle facilities identified in the Cambridge Bicycle Plan (Figure 5.14), or any plan superseding it, provided, however, that any such plan shall maintain Connectivity.

Section 12.22.040 Requirements

A. Whenever Improvements are made to a City-owned street under the City's Five-Year Sidewalk and Street Reconstruction Plan, the City Manager shall cause such Improvements to comply with the Cambridge Bicycle Plan, or any plan superseding it; provided, that if Improvements are made to a segment of the Separated Network, a Permanent Separated Bicycle Lane with Adequate Directionality shall be installed along that segment.

B. Full compliance with the provisions of Subsection A above is not required where the City Manager can demonstrate through a written alternatives analysis, to be made public, why it is impractical to comply with the provisions of Subsection A above, and where there will be a loss of Connectivity if the provisions of Subsection A are not complied with, how Connectivity could be otherwise advanced, if possible. Full compliance with the provisions of Subsection A above will be considered impracticable only in those rare circumstances where the City Manager determines that the characteristics of the physical features or usage of a street, or financial constraints of full compliance prevent the incorporation of a Permanent Separated Bicycle Lane with Adequate Directionality.



Office of the City Manager

ACTION CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Kelly Wallace, Interim Director, Health, Housing & Community Services

Subject: Reserving General Funds for Housing Trust Fund Program Predevelopment Applications for 2527 San Pablo Avenue, 2001 Ashby Avenue, and 2321-2323 10th Street and Possible Measure U1 Funding Reservation

RECOMMENDATION

Adopt a Resolution:

1. Reserving General Funds received pursuant to Measure U1 in the following amounts:
 - \$500,000 for Satellite Affordable Housing Associates' new construction development at 2527 San Pablo Avenue; and
 - \$1.2 million for Resources for Community Development's new construction development at 2001 Ashby Avenue; and
 - \$50,000 for Northern California Land Trust's renovation of 2321-2323 10th Street.
2. Conditioning NCLT's predevelopment loan on the organization demonstrating compliance with the requirements of its 2017 Development Loan Agreement for 1340-48 Blake Street and 2425 California Street, including:
 - Updating its plan for assessing the feasibility of converting 1340-48 Blake and 2425 California to cooperatives; and
 - Updating its organizational documents to reflect a tripartite structure.
3. Conditioning the loan for 2001 Ashby Avenue on RCD's evaluating ways to reduce or eliminate the project's proposed parking spaces and/or parking footprint, if possible, in consideration of the needs of the residents, community services space, and climate change mitigation.
4. Authorizing the City Manager to execute all original or amended documents or agreements to effectuate this action.

SUMMARY

The City's Housing Trust Fund guidelines allow proposed affordable housing developments to apply for predevelopment funding at any time. Predevelopment loans

support activities necessary to get a development ready for construction, such as costs related to design and entitlement. The City received these three applications but no funding is available from the Housing Trust Fund at this time due to prior commitments to the Berkeley Way project. The projects recommended for funding reservations in this report have all been recommended by the Housing Advisory Commission and could be funded from General Funds received pursuant to Measure U1.

FISCAL IMPACTS OF RECOMMENDATION

There is no funding currently available through the City's Housing Trust Fund (HTF) program's designated sources, so funding for these requests would need to come from City General Funds, such as those received pursuant to Measure U1. The funds for all three predevelopment loans would be appropriated as part of the First Amendment to the FY 2020 Annual Appropriations Ordinance that will go to Council on November 19th. The amount of General Funds received as a result of Measure U1 exceed the amounts needed for these requests and to fund reserves in the Berkeley Way project.

The City Council identified Berkeley Way as the first priority for Housing Trust Fund program designated funds on June 13, 2017 with Resolution 68,025-N.S. No designated HTF program funds are available for the predevelopment applications because the City's flexible local funds are needed to meet the Berkeley Way project's specific financing needs (discussed in greater detail later in this report), which is why no HTF program designated funds are available for these projects.

Any Housing Trust Fund program-designated funds remaining after fully funding the Berkeley Way project are expected to be reserved (along with the first tranche of Measure O bond funds) for affordable housing projects applying for funding through the current Request for Proposals (RFP).

CURRENT SITUATION AND ITS EFFECTS

Predevelopment Loan Requests

At its April 4, 2019 meeting, the Housing Advisory Commission (HAC) voted to recommend Satellite Affordable Housing Associates' request for \$500,000 for its proposed development of 2527 San Pablo Avenue.

Action: M/S/C (Tregub/Sharenko) to recommend to City Council Satellite Affordable Housing Associates' (SAHA) predevelopment loan application for \$500,000 for its proposed Blake Street Housing development at 2527 San Pablo Avenue.

Vote: Ayes: Johnson, Sharenko, Simon-Weisberg, Tregub and Wright. Noes: None. Abstain: Lord. Absent: Sargent (excused). Recused: Wolfe.

At its September 5, 2019 meeting, the HAC voted to support Resources for Community Development's \$1.2 million request for its proposed development of 2001 Ashby Avenue and Northern California Land Trust's \$50,000 request for its proposed renovation of 2123-2323 10th Street (subject to the contingencies noted in the votes).

The votes for each action are located below.

Action: M/S/C (Simon-Weisberg/Sharenko) recommend Resources for Community Development's (RCD) predevelopment loan request for an additional \$1.2 million for its proposed development at 2001 Ashby Avenue. The HAC also recommends the City require RCD evaluate ways to reduce or eliminate the project's proposed parking spaces and/or parking footprint, if possible, in consideration of the needs of the residents, community services space, and climate change mitigation.

Vote: Ayes: Lacey, Sargent, Sharenko, Simon-Weisberg, and Wright. Noes: Lord. Abstain: Mendonca. Absent: Johnson (excused) and Owens (excused). Recused: Wolfe.

Commissioner Wolfe recused herself from this item as she is on the board of Resources for Community Development, the applicant.

Action: M/S/C (Simon-Weisberg/Mendonca) to recommend the Housing Trust Fund subcommittee's recommendation to approve Northern California Land Trust's (NCLT) predevelopment loan request for \$50,000 for its proposed acquisition and renovation of 2321-2323 10th Street, subject to NCLT meeting the conditions of its 2017 Development Loan Agreement and completion of the following items prior to disbursement of funds:

- a. NCLT must provide an updated plan for assessing the feasibility of converting 1340-48 Blake and 2425 California to cooperatives; and
- b. NCLT must work with its Board to update the organizational documents to include the tripartite structure.

Commissioner Wolfe recused herself from this item as she is on the board of Resources for Community Development, an organization that makes funding requests to the City of Berkeley for development projects.

Vote: Ayes: Lacey, Mendonca, Sargent, Sharenko, Simon-Weisberg, and Wright. Noes: None. Abstain: Lord. Absent: Johnson (excused) and Owens (excused). Recused: Wolfe. Absent: Johnson (excused) and Owens (excused).

Measure U1/General Funds Availability

The City received these predevelopment funding requests because local affordable housing developers are identifying a pipeline of projects that could be funded with Measure O funds and are incurring related expenses. Although the HTF guidelines allow applicants to submit predevelopment loan proposals at any time, the City has not had any funds designated for the HTF available since June 13, 2017, when Council designated the Berkeley Way project as the first priority to receive those funds.

Staff are working closely with the Berkeley Way project team to identify the mix of funds that could be used to fund the City's existing reservation and will bring more information

to Council in late 2019 or early 2020 in anticipation of an April 2020 construction start. Measure O funds are restricted strictly to specific types of costs, such as building labor and materials, due to laws associated with voter approved bonds. The project has up to \$13M in certain costs the City has committed to support that are not Measure O bond-eligible, such as the capitalized operating reserve, which requires more flexible City funds. The City's funding mix will likely include Measure O funds, mitigation fee revenue, and General Funds such as those received under Measure U1.

In order to support the existing pipeline of projects, this item recommends reserving a total of \$1,750,000 in City General Funds received pursuant to Measure U1. The business license tax increase in Measure U1 went into effect in FY 2018, and the City has collected approximately \$5M per year in additional taxes. At the beginning of FY 2020, the City had a balance of \$8.2M. The Council has approved \$1,868,000 in expenses from this source for FY 2020. Staff project that the City can fund the \$1,750,000 in requested predevelopment funds from General Funds received under Measure U1 this year, and still have adequate funds for the Berkeley Way project.

BACKGROUND

The City's Housing Trust Fund Guidelines allow nonprofit developers to submit predevelopment loan applications at any time, outside of a competitive funding process. In recent months, the City has received predevelopment loan applications from SAHA, RCD, and NCLT for their respective projects. Brief descriptions of each proposed project are below.

2527 San Pablo Avenue – SAHA

SAHA acquired 2527 San Pablo Avenue – a fully entitled project – in May 2019. The project would require demolishing the existing (and vacant) service station, and construction of a new mixed-use development with 63 residential units and commercial space. The residential portion would be 100% affordable, with 62 units restricted at for household incomes at or below 30%-60% of the Area Median Income (AMI) and one unrestricted manager's unit. The units would be a mix of studios, one-, and two-bedrooms. Sixteen units would be set aside for people with special needs, including people with an intellectual or developmental disability or people experiencing homelessness.

SAHA requested \$500,000 in predevelopment funds to support due diligence efforts in converting the property from market rate to deed-restricted affordable housing. The majority of the funding request - \$380,000 – would support architectural work, with the remaining funds going towards environmental reports, geotechnical studies, an appraisal, and a market study. SAHA requested \$12 million in development financing (inclusive of the \$500,000 predevelopment request) through the current RFP.

HHCS staff have no concerns about SAHA's capacity and qualifications to carry out the proposed development, and there are no unresolved findings with respect to the City's monitoring of existing SAHA developments.

2001 Ashby Avenue – RCD

Cooperative Center Federal Credit Union (CCFCU) – the current owner of 2001 Ashby Avenue – entered into an MOU and purchase and sale agreement with RCD for the acquisition and development of the site as affordable housing. RCD is proposing 87 units, with a mix of studio, one-, two- and three-bedroom apartments affordable to households at or below 30% to 80% AMI. Some of them the units would be set-aside for a to-be-determined special needs population, which could include people who are homeless. The development will also include ground floor commercial space, including space for the nonprofit Healthy Black Families.

The City expects to close the initial approved \$368,000 predevelopment loan in September 2019. The loan will cover typical predevelopment period costs including architectural work, engineering, environmental studies, permit fees, an acquisition deposit, and other soft costs. The additional \$1.2 million requested here would go towards the purchase price, acquisition loan costs, and closing costs. Bringing in additional City funds at this stage will help reduce some of the acquisition financing costs. RCD is pursuing a private \$6 million loan that would cover the majority of the acquisition cost, and is contributing \$28,000 of its own capital to fund predevelopment expenses.

HHCS staff have no concerns about RCD's capacity and qualifications to carry out the proposed development, and there are no unresolved findings with respect to the City's monitoring of existing RCD developments.

The Housing Advisory Commission's (HAC) major concern with the project is that it includes more than 50 parking spaces adjacent to a BART station. As stated recommendation and voting information earlier, the HAC recommends conditioning funding on RCD's evaluating ways to reduce the amount of parking provided.

2321-2323 10th Street - NCLT

NCLT is in contract to purchase 2321-2323 10th Street, located one block west of San Pablo Avenue between Bancroft Way and Channing Way. The property has two separate two-story buildings with four units each.

NCLT is proposing to renovate the buildings and convert them to long-term affordability, operating it as a rental project or moving to a cooperative structure. Seven of the eight units are currently occupied. While NCLT has not income-certified the existing residents, four residents hold Section 8 vouchers and have incomes at or below 50% of AMI. NCLT intends to rent the vacant unit to another voucher holder.

The predevelopment funds would be used to assess the current condition of the property, and develop a scope of work that prioritizes health and safety improvements along with energy efficiency upgrades.

HHCS staff believe the proposed project is within NCLT's capacity to successfully complete. The scope is expected to be of similar scale to the renovations of 1340-48 Blake Street and 2425 California (financed together by the City and completed in October 2018), and there are no compliance issues related to the condition and management of those properties. However, staff recommend conditioning the predevelopment funding on NCLT demonstrating compliance with requirements included in the 2017 Development Loan Agreement for the renovation of Blake and California. NCLT is required to assess the feasibility of converting both properties to cooperatives, and update its organizational documents to reflect a tripartite structure composed of 1/3 residents, 1/3 community members, and 1/3 people representing the public interest.

ENVIRONMENTAL SUSTAINABILITY

The projects at 2527 San Pablo Avenue and 2001 Ashby Avenue are both proposed as affordable infill housing, which are typically regarded as mores sustainable forms of development. The project at 2321-2323 10th Street is a proposed renovation of an existing property, with a scope that would include energy efficiency measures.

RATIONALE FOR RECOMMENDATION

All three projects would help meet City goals of creating affordable housing in Berkeley, either through new construction of units or through the conversion of rent controlled units to deed-restricted affordability. SAHA, RCD, and NCLT all applied for development funding through the current RFP. Providing predevelopment funding now will help the developers move forward with feasibility studies and design that will support their applications for non-City development funds.

ALTERNATIVE ACTIONS CONSIDERED

The City could wait until projects in the development pipeline are fully funded and enough mitigation fees designated for the HTF program accrue before considering more predevelopment loan requests.

CONTACT PERSON

Jenny Wyant, Community Development Project Coordinator, HHCS, (510) 981-5228

Attachments:

1: Resolution

RESOLUTION NO. ##,###-N.S.

RESERVING GENERAL FUNDS GENERATED BY MEASURE U1 FOR
PREDEVELOPMENT COSTS

WHEREAS, the City Council established a Housing Trust Fund Program (HTF) guidelines to guide the City's work to assist in the development and expansion of housing affordable to low and moderate income persons who either work or reside within the City of Berkeley, and authorized the City Manager to implement the Program; and

WHEREAS, there is a great need for affordable and special needs housing in the City of Berkeley as stated in the General Plan Housing Element and the City of Berkeley's Consolidated plan; and

WHEREAS, the City's Housing Trust Fund Guidelines allow predevelopment loans to be submitted at any time; and

WHEREAS, Satellite Affordable Housing Associates submitted an application for \$500,000 in predevelopment funding for its proposed development of 2527 San Pablo Avenue, Resources for Community Development submitted an application for an additional \$1.2 million in predevelopment funding for its proposed development of 2001 Ashby Avenue, and Northern California Land Trust submitted an application for \$50,000 in predevelopment funding for its proposed renovation of 2321-2323 10th Street; and

WHEREAS, the 2017 Development Loan Agreement between the City and Northern California Land Trust for the renovation of 1340-48 Blake Street and 2425 California Street included certain requirements related to assessing the feasibility of the converting the properties to cooperatives, and updating the organization's organizing documents to reflect a tripartite Board structure; and

WHEREAS, on November 8, 2016, Berkeley residents voted to approve Measure U1, which increased the business license tax, with revenues going into the City's General Fund; and

WHEREAS, Measure U1 designated the Housing Advisory Commission to advise the Council on expenditures to create affordable housing to prevent homelessness; and

WHEREAS, on April 4, 2019, the Housing Advisory Commission recommended \$500,000 in predevelopment funding for Satellite Affordable Housing Associates' proposed development of 2527 San Pablo Avenue; and

WHEREAS, on September 5, 2019, the Housing Advisory Commission recommended \$1.2 million in predevelopment funding for Resources for Community Development's proposed acquisition and development of 2001 Ashby Avenue, and \$50,000 in predevelopment funding for Northern California Land Trust's proposed acquisition and renovation of 2321-2323 10th Street.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it approves the following reservations of General Funds generated pursuant to Measure U1:

- \$500,000 in General Funds for Satellite Affordable Housing Associates; and
- \$1.2 million in General Funds for Resources for Community Development; and
- \$50,000 in General Funds for Northern California Land Trust.

BE IT FURTHER RESOLVED that the predevelopment funding for Northern California Land Trust be conditioned upon the organization demonstrating compliance with the requirements of its 2017 Development Loan Agreement, including the following:

- Updating its plan for assessing the feasibility of converting 1340-48 Blake and 2425 California to cooperatives; and
- Updating its organizational documents to reflect a tripartite structure.

BE IT FURTHER RESOLVED that the predevelopment funding for Resources for Community Development's 2001 Ashby project be conditioned on RCD's evaluating ways to reduce or eliminate the project's proposed parking spaces and/or parking footprint, if possible, in consideration of the needs of the residents, community services space, and climate change mitigation.

BE IT FURTHER RESOLVED that the City's Housing Trust Fund program guidelines will apply to the use of these funds.

BE IT FURTHER RESOLVED that the City Manager, or her designee, is hereby authorized to execute all original or amended documents or agreements in accordance with the intent of this Resolution; a signed copy of said documents, agreements, and any amendments will be kept on file in the Office of the City Clerk.

BE IT FURTHER RESOLVED that these loans are eligible to be repaid with City Measure O-funded loans, subject to future approval of Measure O loans.



Housing Advisory Commission

ACTION CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Housing Advisory Commission

Submitted by: Xavier Johnson, Chairperson, Housing Advisory Commission

Subject: Recommendation to Modify Policies Related to the Enforcement of the Berkeley Smoke-Free Multi-Unit Housing Ordinance

RECOMMENDATION

Approve modifications to policies related to the enforcement of the Smoke-Free Multi-Unit Housing Ordinance, as follows:

- 1) Increase staffing to implement enforcement of the ordinance as part of the next budget;
- 2) Improve signage related to the ordinance in residential buildings;
- 3) Make the complaint process less onerous and more user-friendly, including enabling complainants to submit complaints electronically, providing complaint forms in different languages, and removing language requiring the statements to be "sworn," and considering other, less threatening language that still expects a complaint be provided under the best of appellant's knowledge;
- 4) Relax the current requirements around how the Ordinance-based complaint form must be completed in order to be processed (e.g., removing the requirement of providing two separate complaints from different individuals within a six-month period, if the building contains two or fewer units, removing the requirement of providing a sworn statement under penalty of perjury); and
- 5) Refer to the Community Health and Cannabis Commissions the question of whether the use of recreational (non-medical) cannabis should be incorporated into the Smoke-Free Housing Ordinance.

SUMMARY

At its July 11, 2019 meeting, the HAC took the following actions:

Action: M/S/C (Tregub/Sharenko) to recommend that City Council modify certain policies related to the enforcement of the Smoke-Free Multi-Unit Housing Ordinance, as follows:

- 1) Increase staffing to implement enforcement of the ordinance as part of the next budget;
- 2) Improve signage related to the ordinance in residential buildings;

- 3) Make the complaint process less onerous and more user-friendly, including enabling complainants to submit complaints electronically, providing complaint forms in different languages, and removing language requiring the statements to be “sworn,” and considering other, less threatening language that still expects a complaint be provided under the best of appellant’s knowledge; and
- 4) Relax the current requirements around how the Ordinance-based complaint form must be completed in order to be processed (e.g., removing the requirement of providing two separate complaints from different individuals within a six-month period, if the building contains two or fewer units, removing the requirement of providing a sworn statement under penalty of perjury).

Vote: Ayes: Johnson, Lewis, Sargent, Tregub, and Wright. Noes: Lord and Sharenko. Abstain: None. Absent: Mendonca (excused), Owens (unexcused), Simon-Weisberg (excused), and Wolfe (excused).

Action: M/S/C (Tregub/Sharenko) to recommend that City Council modify certain policies related to the enforcement of the Smoke-Free Multi-Unit Housing Ordinance, as follows:

- 5) Refer to the Community Health and Cannabis Commissions the question of whether the use of recreational (non-medical) cannabis should be incorporated into the Smoke-Free Housing Ordinance.

Vote: Ayes: Johnson, Sargent, Sharenko, Tregub, and Wright. Noes: Lewis and Lord. Abstain: None. Absent: Mendonca (excused), Owens (unexcused), Simon-Weisberg (excused), and Wolfe (excused).

FISCAL IMPACTS OF RECOMMENDATION

Unknown direct costs. Staff time would be needed to implement these recommendations and to administer a possibly increased volume of complaints should the process of filing a complaint become less onerous. However, savings in staff time would potentially be realized as a result of implementing the efficiencies being proposed.

CURRENT SITUATION AND ITS EFFECTS

The HAC’s recommendation to modify certain policies related to the enforcement of the Berkeley Smoke-Free Multi-Unit Housing Ordinance is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

Ordinance No. 7,321-N.S., The Berkeley Smoke-Free Multi-Unit Housing Ordinance was adopted in early 2014 and, as of May 1, 2014, prohibits smoking in 100% of multi-unit housing with two or more units. This also includes common areas such as private

decks, balconies, and porches of units.¹ Enforcement of the ordinance is complaint-based and modeled after the “Events” section of the Community Noise Ordinance² and Barking Dog Ordinance, in that the standard for enforcement is “two non-anonymous citizen noise complaints.” In the case of the Smoke-Free Housing Ordinance, the City must “[receive] at least two complaints from residents of at least two separate units of the same multi-unit residence, or in the case of a two-unit multi-unit residence, from a resident of the other unit of a violation of [the Ordinance] by the same person provided notice...” in order for the complaints to be sustained. Further, both of these notices must be received within “a six month period following issuance of a [first] notice” to the resident allegedly in violation of the Ordinance.³ The existing complaint form appears to only be available in English on the City website⁴ and includes the following information that a complainant is required to acknowledge:

1. I am a resident in a multi-unit residence within the City of Berkeley;
2. This Complaint is not confidential and may be shared with the person responsible for the violation;
3. If this is the 3rd complaint, City of Berkeley Code Enforcement staff will review the complaint and if they find the complaint contains enough information to move forward, they will consider the matter for further action;
4. If an administrative citation is issued, and the recipient(s) appeals, I will be called to testify at an administrative appeal hearing. I agree to make myself available to testify, and understand that if I fail to testify, the citation may be dismissed.”⁵

As part of the declaration, the complainant must also attest to the following statement: “I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.”⁶

BACKGROUND

Over the prior twenty months, the Berkeley Housing Advisory Commission (HAC) received and heard several concerns from members of the public about the difficulty they encountered in an attempt to bring the City of Berkeley to enforce its Smoke-Free Multi-Unit Housing Ordinance. The HAC recommended to the City Council that a Berkeley Considers survey be conducted, an action that was adopted and completed.

¹ https://www.cityofberkeley.info/Health_Human_Services/Public_Health/Smoke_Free_MUH.aspx

² https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/2009/1n2Dec/2009-12-08_Item_01_Ordinance_7122.pdf

³ https://www.cityofberkeley.info/uploadedFiles/Health_Human_Services/Level_3_-_Public_Health/TobaccoFreeMultiUnitOrdinance.pdf

⁴ https://www.cityofberkeley.info/Health_Human_Services/Public_Health/Smoke_Free_MUH.aspx

⁵ https://www.cityofberkeley.info/uploadedFiles/Health_Human_Services/Level_3_-_Public_Health/SFMUH-ComplaintForm-02-28-18.pdf

⁶ *Ibid.*

The survey results point to similar challenges, primarily associated with:

- 1) The real or perceived difficulty of having a complaint sustained due to the standard applied to the complaint in order for the City to process it;
- 2) The real or perceived onerous nature of filling out and submitting the present complaint form in the manner required by the City;
- 3) The undesirable nature of pursuing action under the Ordinance against a neighboring property owner or tenant, particularly since the complaint is required to be non-anonymous; and
- 4) The perception that, even if the complaint process is followed as required, the City will not enforce it due to the high standard associated with enforcement and complaint-based nature of the enforcement mechanism.

At its March 2019 meeting, the HAC convened a Smoke-Free Housing Ordinance Subcommittee which met in April 2019. Members of the subcommittee reached consensus on several recommendations to the HAC, which were discussed at the April 2019 HAC meeting. Additional feedback was solicited from HAC members as well as members of the public at that meeting. Although the subcommittee did not meet a second time to finalize these recommendations, one of the members of the subcommittee discussed these recommendations with the Eviction Defense Center and the East Bay Community Law Center and modified the draft recommendations so that the idea of empowering inspectors to integrate proactive inspections at the same time that they are conducting other city-mandated inspections (e.g., the Rental Housing Safety Program), exploring the legality of allowing anonymous complaints to be processed, and relaxing the requirement of having to provide two separate complaints within a six-month period in buildings of *all* unit counts were removed from the proposed recommendations that were discussed and approved at the July meeting.

ENVIRONMENTAL SUSTAINABILITY

Insofar as the ability of every occupant of multi-family housing to reside in a smoke-free environment has a nexus to environmental sustainability and environmental justice, these recommendations support the City of Berkeley's environmental sustainability goals.

RATIONALE FOR RECOMMENDATIONS

The recommendations above address the primary challenges associated with enforcement that have been previously described. A brief rationale for each recommendation is presented below.

- 1) Increase staffing to implement enforcement of the ordinance as part of the next budget;

- 2) Improve signage related to the ordinance in residential buildings;

The recommendations above were made at the request of several members of the public who credibly claimed that the current staffing level to enforce the ordinance and required signage are inadequate to meet the goals of this ordinance.

- 3) Make the complaint process less onerous and more user-friendly, including enabling complainants to submit complaints electronically, providing complaint forms in different languages, and removing language requiring the statements to be “sworn,” and considering other, less threatening language that still expects a complaint be provided under the best of appellant’s knowledge; and
- 4) Relax the current requirements around how the Ordinance-based complaint form must be completed in order to be processed (e.g., removing the requirement of providing two separate complaints from different individuals within a six-month period, if the building contains two or fewer units, removing the requirement of providing a sworn statement under penalty of perjury).

These four recommendations would address the following concerns that the HAC noted from members of the public as well as from survey responses:

- 1) The real or perceived difficulty of having a complaint sustained due to the standard applied to the complaint in order for the City to process it;
- 2) The real or perceived onerous nature of filling out and submitting the present complaint form in the manner required by the City;
- 3) The undesirable nature of pursuing action under the Ordinance against a neighboring property owner or tenant, particularly since the complaint is required to be non-anonymous; and
- 4) The perception that, even if the complaint process is followed as required, the City will not enforce it due to the high standard associated with enforcement and complaint-based nature of the enforcement mechanism.

The current process requires an extremely high bar of evidence and effort for a complainant, and in a situation in which the complainant resides in close quarters with the allegedly offending party, may expose the complainant to possible retaliation (due to the lack of anonymity of the complaint). In addition, while the correctness of a complaint is fundamental to its ability to be processed, using the same language in the complaint form that is seen in a sworn affidavit is likely to intimidate some would-be complainants from undergoing the process of completing and submitting the form.

Furthermore, while the Smoke-Free Multi-Unit Housing Ordinance page on the City of Berkeley website currently includes several forms in Spanish as well as English, the complaint form itself is only available in English. No other languages besides English and Spanish were found anywhere on the site.⁷ The requirement that only a hard copy can be submitted and that electronic submission mechanisms are not accepted is overly burdensome, in an age where even police reports can be filed online. The provision that three separate complaints (two of them from separate individuals) must be received within the span of six months shifts the burden of policing onto the complainants rather than City, which is charged with enforcing this ordinance. Each of these recommendations addresses these and related concerns mentioned above.

The final recommendation approved by a separate vote by the HAC is as follows:

- 5) Refer to the Community Health and Cannabis Commissions the question of whether the use of recreational (non-medical) cannabis should be incorporated into the Smoke-Free Housing Ordinance.”

The Smoke-Free Housing Subcommittee and several additional members of the HAC and public felt that, with the recent relaxation of state law around the use of recreational (non-medical) cannabis, it would be worthwhile for these two commissions, both comprised of subject matter experts in their respective fields, to study this question. Only further study rather than any concrete actions is recommended at this time.

ALTERNATIVE ACTIONS CONSIDERED

Members of the HAC Smoke-Free Housing Subcommittee briefly discussed but dismissed the notion of making changes to the underlying Berkeley Smoke-Free Multi-Unit Housing Ordinance itself. Based on discussions with the eviction defense community, several elements were removed from the initial recommendations. These recommendations that are no longer proposed included the following:

- 1) Empowering inspectors to integrate proactive inspections regarding the smoke-free Ordinance enforcement at the same time that the inspectors are conducting other city-mandated inspections (e.g., the Rental Housing Safety Program);
- 2) Exploring the legality of allowing anonymous complaints to be processed;
- 3) Relaxing the requirement of having to demonstrate two separate complaints within a six-month period in buildings of *all unit sizes*.

Therefore, though some of the recommended actions, if approved, may trigger the need to provide subtle adjustments to the enforcement of the Ordinance, none of the actions above alter the fundamental architecture of the Ordinance.

⁷ https://www.cityofberkeley.info/Health_Human_Services/Public_Health/Smoke_Free_MUH.aspx

Recommendation to Modify Policies Related to the Enforcement
of the Smoke-Free Multi-Unit Housing Ordinance

ACTION CALENDAR
October 29, 2019

CITY MANAGER

See companion report.

CONTACT PERSON

Mike Uberti, Commission Secretary, HHCS, (510) 981-5114



Office of the City Manager

ACTION CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Kelly Wallace, Interim Director, Health, Housing, & Community Services
 Subject: Companion Report: Recommendation to Modify Policies Related to the Enforcement of the Berkeley Smoke-Free Multi-Unit Housing Ordinance

RECOMMENDATION

The City Manager appreciates the Housing Advisory Commission's efforts to strengthen the implementation of the Smoke-free Multi-Unit Housing ordinance and recommends that the proposed modifications be referred to the City Manager Office for an analysis of the financial and legal feasibility of the proposed changes.

FISCAL IMPACTS OF RECOMMENDATION

The modifications proposed by the Housing Advisory Commission could require increase in staffing and resources for Public Health's Tobacco Prevention Program and the City Manager's Code Enforcement Division. A feasibility analysis will provide more insight to the costs of revised program administration as proposed.

CURRENT SITUATION AND ITS EFFECTS

On July 11, 2019, the Housing Advisory Commission adopted a multi-pronged recommendation to modify the SFMUH ordinance. The proposed modifications vary in their scope and will require additional analysis prior to adoption, which fits with the Strategic Plan Priority goal to provide an efficient and financially-healthy City government.

The commission's recommendations are outlined below with proposed analysis by staff. The proposed analysis would include:

Commission Recommendation 1: Increase staffing to implement enforcement of the ordinance as part of the next budget.

Staff should analyze how the proposed modifications, if adopted, will impact current demands on staff time and determine how many Full Time Equivalent (FTE) employees would be needed. The Public Health Division's Tobacco Prevention Program manages the administration of the ordinance, including processing and monitoring complaints and correspondence with potential violators and landlords. Enforcement of this ordinance is

managed by the City Manager's Code Enforcement Division in coordination with the PH Tobacco Prevention Program.

This request for analysis aligns with a recommendation of the June 2018 City Audit of the Neighborhood Services' Code Enforcement Unit. The audit states any proposed legislation that creates additional workload for the Neighborhood Services Code Enforcement Unit should undergo a resource analysis by City Council to evaluate the proposed fiscal and workload impacts and determine the opportunity cost and implementation approach. The Audit also notes that new code enforcement areas may require significant staff time and resources, which may take away from the unit's ability to meet its other enforcement obligations. Additions to the unit's workload could result in loss of revenue generated from fines and enforcement fees, as well as an increased risk to lawsuits brought on by those who claim the City failed to meet its enforcement obligations.

Commission Recommendation 2: Improve signage related to the ordinance in residential buildings.

The City's Tobacco Prevention Program provides property owners/managers with "No Smoking" signage for common areas consistent with the signposting requirements of Berkeley Municipal Code Section 12.70.060. Staff could consult with the Community Health Commission to seek information and determine any potential improvements.

Commission Recommendation 3: Make the complaint process less onerous and more user-friendly, including enabling complainants to submit complaints electronically, providing complaint forms in different languages, and removing language requiring the statements to be "sworn," and considering other, less threatening language that still expects a complaint be provided under the best of appellant's knowledge.

Staff appreciates the Commission's efforts to make the complaint process more user-friendly. An electronic complaint submission system would considerably ease the complaint process (which requires signature authentication) as well as administrative tasks. At the same time, some of the Commission's suggestions could raise potential unintended consequences that would need to be considered and thought through. For instance, several departments—including the City Attorney's office—would need to provide an opinion on the City's ability to accept signatures electronically and the implications of removing requirements for sworn statements. Additionally, electronic forms and signatures should be considered as a part of the City's ongoing website redesign.

Staff currently has a limited capacity for language translation. A feasibility analysis would have to determine criteria for what languages should be included and funding needed to provide these services, as well as changes to the language in the ordinance to simply the process.

Commission Recommendation 4: Relax the current requirements around how the Ordinance-based complaint form must be completed in order to be processed (e.g., removing the requirement of providing two separate complaints from different individuals within a six-month period, if the building contains two or fewer units, removing the requirement of providing a sworn statement under penalty of perjury).

Again, we support efforts to ease the process for complainants, and would work with the City Attorney on any liabilities or legal implications associated with the proposed modifications.

Commission Recommendation 5: Refer to the Community Health and Cannabis Commissions the question of whether the use of recreational (non-medical) cannabis should be incorporated into the Smoke-Free Housing Ordinance.

Staff are currently working on amendments to the current SFMUH ordinance (and other parts of the Berkeley Municipal Code) to clarify that it includes cannabis. Proposition 64 legalized adult-use of cannabis in California by creating limited exceptions to the state Uniform Controlled Substances Act. But Proposition 64 specifically provided that it did not permit smoking of “cannabis or cannabis products in a location where smoking tobacco is prohibited.” (Health & Safety Code, § 11362.3.) Thus, cannabis smoking is still unlawful in places where tobacco smoking is prohibited, including under local laws like the SFMUH ordinance.

BACKGROUND

The Berkeley City Council adopted Ordinance No. 7,321-N.S. regulating second hand smoke in all multi-unit residences common areas. As of May 1, 2014, smoking tobacco products is prohibited in 100% of multi-unit housing with two or more units (i.e. apartments, co-ops, condominiums, common interest developments, etc.). This also includes common areas such as private decks, balconies, and porches of units.

ENVIRONMENTAL SUSTAINABILITY

Providing smoke-free housing improves the local air quality of Berkeley’s housing stock.

RATIONALE FOR RECOMMENDATION

Staff appreciate the commission’s efforts to respond to community concerns and ensure the City has the most effective and accessible ordinance possible to serve our residents. Due to the varied, multi-pronged nature of their recommendations, staff are recommending a feasibility analysis is first considered to better understand the potential impacts and needs associated with the proposed ordinance modifications.

ALTERNATIVE ACTIONS CONSIDERED

The City Council may consider to maintain the current enforcement mechanisms that fall within the City’s established legal and administrative protocol.

CONTACT PERSON

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**SOPHIE HAHN**

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ACTION CALENDAR

October 29, 2019

To: Honorable Members of the City Council
 From: Councilmember Sophie Hahn
 Subject: Proposed Formula Retail (Chain Store) Regulations

RECOMMENDATION

1. Refer to the City Manager and Planning Commission to finalize and return to the City Council for adoption an Ordinance and related amendments to the Berkeley Municipal Code, if any, based on the Draft Formula Retail Ordinance attached hereto, to establish Formula Retail regulations for Commercial and Manufacturing Districts in the City of Berkeley.
2. Refer to the City Manager and Planning Commission to:
 - a. Recommend establishment of Business District boundaries and names, as provided for in Section 23E.18.030(B) of the proposed Formula Retail Ordinance, and
 - b. Through a process that includes public notice and input, as described in the proposed Formula Retail Ordinance, recommend for each Business District whether to allow unlimited Formula Retail, limited Formula Retail (some or all use categories allowed with a Use Permit, Neighborhood Notice, Design Review and findings) or to prohibit Formula Retail.

SUMMARY STATEMENT

Small businesses are the backbone of Berkeley's economic health, and represent a significant portion of our living-wage jobs. Unfortunately, they are threatened by increasing costs, displacement, and growing competition from online stores and chain retailers. Though chain or "Formula Retail" establishments have a role in the mix of businesses operating in Berkeley, an oversaturation of Formula Retail negatively impacts the local character of business districts and makes it more difficult for small businesses to become established, to survive, and to thrive.

Berkeley can strengthen protections for small, local and diverse businesses by limiting the number and location of Formula Retail uses in each business district. Formula Retail restrictions, in place in San Francisco for over 15 years and operative in other California cities that value local business and character, are simple and flexible, and tailored to meet the unique needs, values and sensibilities of each business district.

Formula Retail restrictions establish a definition of Formula Retail and then determine, on a business district by business district basis, whether the district will allow an unlimited amount of Formula Retail; limited Formula Retail; Formula Retail only under specified conditions; or whether a business district will prohibit Formula Retail entirely. Where Formula Retail is limited or allowed only under specified conditions, a Use Permit to establish a Formula Retail Use is required. In districts where no Formula Retail is allowed, or where unlimited Formula Retail is allowed, a Formula Retail Use Permit is not required. Businesses that do not meet the definition of Formula Retail -- smaller and local businesses, including small local chains with up to 20 outlets -- have no new requirements under the regulations.

San Francisco's Formula Retail Ordinance is an excellent model for Berkeley to adapt and follow. It has been in place for more than 15 years, and was the subject of a comprehensive evaluation, which resulted in a revised -- and improved -- regulatory framework. This item proposes that the City of Berkeley implement Formula Retail legislation, patterned after San Francisco, to limit saturation of Formula Retail, support small and local businesses, and preserve the character and quality of our business districts and neighborhood shopping areas.

BACKGROUND

Berkeley's unique character is owed in large part to the presence of small businesses, and these businesses contribute significantly to the economic and cultural vitality of the City. However, small and locally owned businesses face significant challenges due to increasing costs of doing business, constraints of available space, and growing competition from online stores and expanding chain retailers.

Challenges Facing Small and Local Businesses

A basic challenge that many small and local businesses face is finding an affordable location. Commercial rents throughout the Bay Area, including in Berkeley, have risen dramatically in recent years. One estimate found that between 2016 and 2018 office rents in Berkeley increased 15% to 20%.¹ Small businesses are much less likely than chain stores to be able to afford high initial rents when finding new space or to endure annual rent increases, while chain stores are well-equipped to negotiate better rents or afford higher ones. Berkeley's rent stabilization ordinance, which protects and regulates residential rents, does not apply to commercial property as commercial rent control is prohibited by the State.

Small businesses also struggle to find appropriately-sized store fronts. In the Bay Area, 80% of local, independent businesses occupy locations smaller than 3,000 square feet, while 85% of

¹ https://www.cityofberkeley.info/uploadedFiles/Manager/Economic_Development/2017-01-16%20WS%20Item%2001%20Economic%20Development%20Worksession.pdf

chain retailers occupy a space larger than 3,000 square feet.² As demand for small commercial space has increased in urban neighborhoods, supply has not kept pace. In addition, once a space has been occupied by a chain store, or several spaces have been combined for a chain store, and the space has been changed to suit larger-scale needs, it is less likely that a smaller retailer will be able to occupy the space in the future. Thus, storefronts that have been occupied by chain stores can prohibit small businesses from taking hold, even when a property is vacant.

Because most existing commercial spaces in neighborhood commercial districts are small, the proliferation of larger-floorplate uses -- whether through the combination of existing spaces or construction of new buildings -- not only displaces existing neighborhood businesses but can permanently destroy the character and scale of the district.

With the benefits of global supply chains, public subsidies, and, often, reduced competition, chain and online stores are able to undercut small and independent businesses. A study of West Side Chicago businesses found that the opening of a Walmart in 2006:

*"led to the closure of about one-quarter of the businesses within a four-mile radius [...] By the second year, 82 of the businesses had closed. Businesses within close proximity of Walmart had a 40 percent chance of closing. The probability of going out of business fell 6 percent with each mile away from Walmart."*³

This data suggests that large chain retailers negatively impact surrounding businesses because they undercut prices. However these reduced prices do not last for long:

*"Once the chain has eliminated the local competition, prices tend to rise. In Virginia, a survey of several Walmart stores statewide found prices varied by as much as 25 percent. The researchers concluded that prices rose in markets where the retailer faced little competition. A similar conclusion was reached in a survey of Home Depot. Prices were as much as 10 percent higher in Atlanta compared to the more competitive market in Greensboro, North Carolina."*⁴

Local independent businesses are also threatened by online platforms and online marketing by chain retailers. For example, one study showed that 55% of online shoppers search for products directly on Amazon, bypassing search engines that may show local results. This means a local retailer wishing to sell its products and services online can easily be undercut and driven out of business, even if demand for their products persists in their community. In part due to market consolidation, the number of new businesses launched each year has fallen by nearly two-thirds in recent decades. Between 2005 and 2015, the number of small retailers fell by 21%.

² <https://ilsr.org/watch-san-franciscos-anmarie-rodgers-on-how-the-citys-formula-business-policy-works/>

³ <http://journals.sagepub.com/doi/abs/10.1177/0891242412457985>

⁴ Elizabeth Humstone and Thomas Muller, "Impact of Wal-Mart on Northwestern Vermont," prepared for the Preservation Trust of Vermont, the Vermont Natural Resources Council, and Williston Citizens for Responsible Growth, 1995; Chris Rouch, "Home Depot using predatory pricing tactics, critics say," *Atlanta Journal & Constitution*, March 18, 1995, p. 1B.

Large chains and online retailers are able to absorb costs and suffer losses where small and local businesses cannot. Amazon, as an extreme example, can regularly undercut other online prices for extended periods of time to drive out competition, even if it means taking a temporary loss on those items; monopoly pricing on other items is a more than adequate offset. By contrast, small businesses, often run on razor-thin margins, lack the necessary financial and structural cushions to survive even a few months' downturn in sales or rise in rent, and cannot match anti-competitive pricing at below cost levels.

Benefits of Small and Local Businesses

Small and locally-owned businesses provide numerous benefits to the communities they serve through the creation of locally-owned supply chains and investment in local employees. In fact, they stimulate local economies to a greater degree than chains. Small businesses reinvest a higher percentage of their profits into the local economy than chains, recirculating 45% of their revenue back into the local economy, compared to 17% recirculated locally by chain stores.⁵ A study in Austin, Texas, showed that independent book and music stores returned more than three times as many dollars to the local economy than a proposed large chain book and music outlet would have returned.⁶

Local businesses tend to purchase goods and services from other local businesses, while large chains leverage global supply chains and sometimes even global workforces. Chains have little reason to invest capital in a local economy when more profitable alternatives exist elsewhere, which leads to a lower percentage of their revenue recirculating into the local economy.⁷

Besides contributing to local economic activity, the presence of small and locally-owned businesses results in higher incomes and lower levels of poverty in their communities, while big-box retailers depress wages and benefits for retail employees. Workers in chain retailers also rely more heavily on government subsidies and public assistance, due to the low wages they receive. In Massachusetts, a report showed that of the 50 companies that had the most employees enrolled in the state's low-income and safety net health insurance programs, about half were employees of retail and restaurant chains.⁸

Beyond economic factors, small and locally-owned businesses also contribute to vibrant and engaged commercial centers and neighborhoods. High concentrations of small businesses can lead to improved public health outcomes,⁹ stronger social ties, higher levels of civic

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<http://nebula.wsimg.com/31f003d5633c543438ef0a5ca8e8289f?AccessKeyId=8E410A17553441C49302&disposition=0&alloworigin=1>

⁶ <https://www.amiba.net/resources/multiplier-effect/>

⁷ http://www.independentwestand.org/wp-content/uploads/ThinkingOutsidetheBox_1.pdf

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<http://ilsr.org/wp-content/uploads/2011/12/massachusetts-50-plus-employers.pdf>

⁹ "The Health and Wealth of US Counties: How the Small Business Environment Impacts Alternative Measures of Development," Troy C. Blanchard, et al., *Cambridge Journal of Regions, Economy, and Society*, 2011

engagement, and more resilient communities overall.¹⁰ Data from three major cities (San Francisco, Seattle, and Washington D.C.) showed that commercial districts within cities with fewer chain stores and more local businesses performed better in certain economic, social, and environmental outcomes, by increasing the walk and transit score of the city, offering business districts that are more affordable and flexible to a larger variety of entrepreneurs, and helping the local economy thrive by providing more jobs per square foot.^{11,12}

What is Formula Retail?

Formula retailers -- chain stores -- are establishments with multiple locations that utilize standardized features or a recognizable appearance to encourage patronage. Recognition is dependent upon the repetition of characteristics of one store in multiple locations. Though formula retailers can serve a role within a shopping district, an oversaturation of formula retail outlets reduces the unique character of a district and can contribute to reduced economic activity overall, and make it more difficult for small businesses to survive. Moreover, the generic quality of formula retail runs contrary to General Plan and other Berkeley policies which support enhancement of the unique character of shopping districts and a diversity of business types.

Regulating Formula Retail

Communities across the country have employed different strategies to address problems raised by over-concentration of formula retail. Formula retail legislation typically seeks to define the following factors:

- Number of worldwide locations a retailer must have to qualify as a “formula retailer”
- Characteristics that create a recognizable brand across multiple locations, including standardized features, employee uniforms, products, displays, or signage
- Types of retail uses or services that are subject to formula retail legislation and districts where formula retail is limited or prohibited, and
- Administrative process for prohibiting, managing, or modifying formula retail across the community or in specific districts.

San Francisco’s Formula Retail Framework

Of the many communities that have implemented a formula retail ordinance, San Francisco has most fully articulated these principles in crafting its policies. Because of the significant resources San Francisco has committed to formula retail regulation, and the length of time regulations have been in place, its regulatory framework has been subject to improvements over time, and provides an excellent model for Berkeley to adapt and follow.

¹⁰ <https://ilsr.org/why-care-about-independent-locally-owned-businesses/>

¹¹

<http://forum.savingplaces.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=b73e8fc7-7fb2-0fc7-202c-d0ed58ff3089&forceDialog=0>

¹² <https://www.frbatlanta.org/community-development/publications/discussion-papers/2013/01-do-local-business-ownership-size-matter-for-local-economic-well-being-2013-08-19.aspx>

In 2004, San Francisco first enacted legislation to regulate formula retail. The ordinance was revised in 2014, reflecting recommendations outlined in a study of the first ten years of the policy.¹³ The ordinance remains in force, and is an effective deterrent against a proliferation of chain stores. Thanks in part to its formula retail policies, San Francisco has more independent businesses and fewer chains per capita than other big cities.¹⁴

The San Francisco ordinance establishes a conditional use application process for any retail store or restaurant that meets the definition of formula retail. A formula retailer is defined as:

*“a type of retail sales activity or retail sales establishment that has eleven or more other retail sales establishments in operation, or with local land use or permit entitlements already approved, located anywhere in the world. In addition to the **eleven or more** other retail sales establishments located in the World, maintains two or more of the following features: a **standardized** array of **merchandise**, a **standardized facade**, a **standardized decor and color scheme**, a **uniform apparel**, **standardized signage**, a **trademark** or a **servicemark**.” In other words, retail stores with multiple locations and a recognizable “look” or appearance.” (SF Planning Code, § 303.1)*

In certain districts, formula retail is unrestricted (e.g., the downtown district) or entirely disallowed (e.g., North Beach, parts of Chinatown). In most of San Francisco, including the city’s Neighborhood Commercial Districts, formula retail is allowed through a conditional use process in which the business application is reviewed by the SF Planning Commission, discussed at a public hearing, and approved (or denied) on a case-by-case basis. Each application is evaluated based on a number of factors:

- Existing concentration of formula retail businesses within the neighborhood
- Availability of similar goods or services within the area
- Compatibility of the proposed business with the character of the neighborhood (including aesthetic features)
- Retail vacancy rates in the area, and
- The balance of neighborhood-serving versus citywide or regional-serving businesses.¹⁵

This process allows the SF Planning Commission to exercise discretion and respond to on a case-by-case basis to each business district’s unique character and mix of businesses. By limiting formula retail, rents have remained lower in some districts, reducing costs for independent retailers.¹⁶ San Francisco’s conditional use permits allow the City to require formula retailers to have pedestrian friendly designs, aesthetics that do not detract from local character, and meet other aesthetic standards.¹⁷ Of the applications submitted by formula

¹³ http://208.121.200.84/ftp/files/legislative_changes/form_retail/Final_Formula_Retail_Report_06-06-14.pdf

¹⁴ <https://ilsr.org/rule/formula-business-restrictions/2321-2/>

¹⁵ <https://ilsr.org/rule/formula-business-restrictions/2321-2/>

¹⁶ http://default.sfplanning.org/legislative_changes/form_retail/Final_Formula_Retail_Report_06-06-14.pdf

¹⁷ <https://ilsr.org/watch-san-franciscos-anmarie-rodgers-on-how-the-citys-formula-business-policy-works/>

retailers during 2004-14, approximately 70% were approved, often with modifications, demonstrating that the conditional permit process is well crafted to balance interests, without unduly restricting formula retail.

Research conducted by San Francisco in 2014 found that only 5% of “chains” had 20 or fewer worldwide locations.¹⁸ While San Francisco did not adopt 20 as the threshold for defining a formula retail activity or enterprise, we are proposing 20 as the threshold to ensure that fast-growing start-ups in the region can grow and thrive. Many small businesses that originate in Berkeley or the Bay Area establish outlets region-wide to help make their businesses sustainable. Berkeley can benefit by having these local emerging small chains in our community while still receiving the economic benefits of local or regional ownership.

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

General Plan

The City of Berkeley has taken an active role in economic development and legislation to better serve the needs of the small and local business community, and to promote the positive economic and social outcomes associated with a thriving small business environment. The policies of the General Plan and Office of Economic Development guide the City's actions towards actively promoting community and neighborhood values with independent, locally owned, and neighborhood serving businesses.

- Goal #1 of the General Plan is to “Preserve Berkeley’s unique character & quality of life”, which includes protecting the City’s economic diversity.
- Goal #2 of the General Plan also identifies supporting local businesses and neighborhood-serving businesses as a key step toward ensuring Berkeley’s supply of decent housing, living-wage jobs, and businesses providing basic goods and services, further stating that a limited number of chain stores “contribut[es] to the vitality of Berkeley’s commercial areas”.¹⁹
- More specifically, Economic Development Actions ED-3 and ED-4 directly address retaining and developing businesses that serve local neighborhood needs, implementing a small business preference program, and utilizing zoning mechanisms to limit “development of undesirable chain stores, formula businesses, and big-box developments” while enabling the expansion of local businesses.²⁰

Berkeley Policies that Support Small Businesses

¹⁸ http://default.sfplanning.org/legislative_changes/form_retail/Final_Formula_Retail_Report_06-06-14.pdf

¹⁹

https://www.cityofberkeley.info/Planning_and_Development/Home/General_Plan_-_Economic_Development_and_Employment_Element.aspx

²⁰ https://www.cityofberkeley.info/Planning_and_Development/Home/General_Plan_-_Economic_Development_and_Employment_Element.aspx

The City of Berkeley has taken action in the past to support local business and limit chains by banning new fast food chains, limiting the number of pharmacies in close proximity to each other, establishing a maximum square footage for big box stores and imposing quotas in commercial districts.

In response to merchant concerns about rising rents demanded by commercial landlords, the City Council in 1985 enacted the “Telegraph Urgency Ordinance”.²¹ At the time, the ordinance was the nation’s only program of commercial rent regulation. After commercial rent control was outlawed by the State, Berkeley enacted quotas on various use types in some retail districts, which were intended to preserve diversity and local ownership among businesses and discourage unwanted commercial uses as defined in each commercial district’s purposes. These quotas, which could be violated with a Use Permit and were often exceeded, were eventually removed or greatly simplified.²²

Berkeley has also acted to limit the size, number and concentration of drugstores that can operate in the City.²³ This was done to prevent pharmacy chains from opening too close to each other while leaving other areas of Berkeley underserved and to preserve a diversity of uses in neighborhood business districts, allowing them to retain their unique character.²⁴

In April 2017, the City Council approved a Small Business Support Package, authored by Councilmember Hahn and Mayor Arreguin, to support new and sustain existing small and locally-owned businesses.²⁵ The package included measures to provide financial support to small businesses and nonprofits impacted by development projects; fees on vacant storefronts and empty lots; a local business advocacy center; streamlining of zoning, permitting, and licensing for small businesses; strengthening Berkeley’s Revolving Loan Fund program; expanding Buy Local preferences; and exploring a Legacy Business-type program for Berkeley.

In April 2019, the Council approved another important measure to support Berkeley businesses interested in the worker cooperative ownership model.²⁶ Owned and run by employees, worker cooperatives typically provide higher wages, benefits, professional development, job security, and upward mobility for low to moderate income people. Also, these small businesses provide a diversity of locally owned services. In Berkeley, worker cooperatives such as The Cheese Board Collective, Biofuel Oasis, and Missing Link Bicycle Cooperative have become an integral part of

²¹ https://www.cityofberkeley.info/Planning_and_Development/Home/Southside_Plan_-_DSS_6_Economic_Development.aspx

²² https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2015-12-16_Item%209_Quotas-Combined.pdf

²³ https://www.cityofberkeley.info/Clerk/City_Council/2014/07_Jul/Documents/2014-07-01_Item_01_Ordinance_7354.aspx

²⁴ <https://www.cityofberkeley.info/recordsonline/export/16418086.pdf>

²⁵ https://www.cityofberkeley.info/Clerk/City_Council/2017/04_Apr/Documents/2017-04-25_Item_41_Small_Business.aspx

²⁶ https://www.cityofberkeley.info/Clerk/City_Council/2019/02_Feb/Documents/2019-02-26_Revised_Packet_2019-02-26_Item_A_Referral_Response_Supporting_Worker_Cooperatives_pdf.aspx

the community's fabric. These and other worker owned businesses create higher quality jobs, increase local reinvestment, and have demonstrable positive impact on business retention.

According to the City of Berkeley's Office of Economic Development (OED),

“small businesses are a critical part of our local economy: they provide access to essential goods and services, create jobs and economic opportunities, and make essential contributions to Berkeley's vitality and distinct character. In recent years, the viability of small businesses has been threatened by a broad range of issues including the increasing costs of doing business, physical conditions of commercial districts, competition from the Internet, and difficulty engaging with the City of Berkeley.”

The OED is focused on supporting small and local businesses, cooperatives, not for profits and arts organizations -- which make up the majority of Berkeley enterprises. In response to Council direction, and in light of the important role of these types of enterprises in the economic and cultural vitality of the City, the OED has launched five new policy initiatives²⁷:

- Improve outreach and communications with small businesses
- Increase support for businesses navigating the permitting process
- Recommend modifications to the zoning ordinance to support small businesses
- Pilot small business retention programs, and
- Support independently owned retailers with marketing, networking and education.

The objectives of these programs include boosting the profitability and sustainability of small businesses, preventing the closure and displacement of small businesses, sustaining and growing business-related municipal revenues, and improving Berkeley's reputation as a place to do business.

ACTIONS/ALTERNATIVES CONSIDERED

San Francisco, Sausalito, San Juan Bautista, Pacific Grove, and other cities across the country have passed legislation regulating formula retailers, tailored to the unique character and needs of their communities. Nantucket, MA, banned all formula retail from its historic downtown district. Cities such as San Francisco, Ojai, and Arcata, CA, and Bristol, RI, have implemented a conditional use framework to limit the number of formula retailers allowed in their commercial districts. Rather than impose outright bans or quotas on formula retail, these cities have a special application process and require robust findings for formula retailers to operate in regulated districts.

Communities have the power to maintain their integrity and character as set forth by their general plans. Only one formula retail ordinance has been challenged and overturned. Islamorada, a vacation destination in the Florida Keys, implemented formula retail restrictions nearly a decade ago. The court reviewing a legal challenge to the ordinance found it would fail

²⁷ https://www.cityofberkeley.info/Clerk/City_Council/2019/02_Feb/Documents/2019-02-05_WS_Item_02_Referral_Response_Small_Business_pdf.aspx

to “help the town preserve its character,” noting for the record that Islamorada “has not demonstrated that it has any small town character to preserve”.²⁸

The goal of formula retail legislation is not to eliminate formula retail entirely. A key to crafting effective formula retail regulations is to avoid arbitrary quotas or limits on formula retailers, to be responsive to existing community and local flavor, and to adapt any regulations accordingly.

As noted above, Berkeley has experimented with commercial rent control and quotas, among other measures, but currently has very limited regulations in place to support the establishment and continuation of small, local and diverse businesses and curtail the proliferation of chains. Currently, formula retail regulation is considered to be the best tool to achieve these goals.

CONSULTATION/OUTREACH OVERVIEW AND RESULTS

Because this item proposes an Ordinance, it will be routed to a Council Committee for discussion. Through this process we will reach out to small businesses and property owners to invite them to bring their comments to the committee. In addition, this item is a referral to the City Manager and Planning Commission. Assuming it is sent from the policy committee with a positive recommendation to the City Council and is referred by Council to the City Manager and Planning Commission, there will be many opportunities for citizen, business and property-owner input through the many public meetings envisioned to make this ordinance a reality.

RATIONALE FOR RECOMMENDATION

Berkeley’s small businesses, which are vital to the city’s character and economic health, are threatened by the growth of online stores and chain retailers. Other communities have successfully protected their small and independent businesses by placing restrictions on formula retail. San Francisco’s comprehensive, longstanding and carefully crafted formula retail regulations are an appropriate model for Berkeley -- adapted and carefully tailored to fit Berkeley’s specific qualities and needs, and to help preserve the important character and quality of the City’s commercial districts and neighborhood shopping areas.

This item refers to the City Manager and Planning Commission to undertake all elements necessary to craft and implement successful formula retail regulations in Berkeley.

A draft ordinance is provided, starting the process of adapting San Francisco’s formula retail regulations to Berkeley’s existing regulatory framework and processes. The City Manager and Planning Commission are tasked with completing the ordinance and preparing any complementary code amendments necessary to achieve the full regulatory framework. It is expected that the “Uses Permitted” Section of each Commercial and Manufacturing District will require small amendments to reflect the addition of the new Formula Retail Use.

The City Manager is further requested to recommend boundaries and names, if applicable, for Business Districts and, through a process that includes robust community outreach, to

²⁸ <https://ilsr.org/bloomberg-restrict-chains/>

recommend for each Business District whether formula retail will be allowed without restriction; allowed with a Use Permit, Neighborhood Notification, Design Review and findings; or disallowed.

Public meetings to discuss whether a Business District should allow, disallow or allow with a Use Permit the establishment of formula retail uses are expected to be organized by the Office of Economic Development and/or Planning Department in collaboration with Councilmember representatives of Business Districts. Notice for such meetings shall, at a minimum, be the same as the notice proposed to obtain a Use Permit for Formula Retail. Several Business Districts can be considered at one meeting, so long as each Business District and surrounding area are noticed.

Notice to obtain a Use Permit for Formula Retail includes the following:

In addition to the public notice requirements for a Use Permit pursuant to Section 23B.32.020, public notice shall include all businesses and residents (all mailing addresses) and all owners of properties within the Business District where the Formula Retail use is proposed and within a 500 foot radius of the proposed Formula Retail use.

Formula retail legislation, modeled after San Francisco's policy, will help Berkeley maintain the unique character of its business districts and complement existing efforts and policies to support independent and local merchants. By carefully tailoring Formula Retail legislation to Berkeley's specific needs, the City can ensure a balanced mix of national brands while making sure that small and local businesses lacking the economic muscle to pay high rents and weather downturns still have a chance to thrive.

IMPLEMENTATION, ADMINISTRATION, AND ENFORCEMENT

At the outset, implementation will require creating new forms to be filled out by applicants for business licenses to establish new business or new ownership of existing businesses in Berkeley and zoning permits for new or expanded uses. These can be adapted from San Francisco's forms. Additional forms may require amendment, and some training will be required for staff who process licenses and permit applications.

Once in place, Use Permits for Formula Retail will be administered in the same manner as all other Use Permits and Design Review will also be undertaken in the usual manner. Enhanced notice requirements will require more notices to be sent than in the usual case for a Use Permit, representing minor additional costs.

Regular fees for a Use Permit will be required, ensuring that the Planning Department's costs are covered by the Formula Retail applicant. It is not expected that a large number of applications for Formula Retail Use Permits will be processed in any given year, as a limited number of new businesses open each year and many will not meet the definition of Formula Retail. For those that do meet the definition, only a subset, those that seek to establish themselves in business districts that limit formula retail, will be required to obtain a Use Permit.

ENVIRONMENTAL SUSTAINABILITY

This item supports the Berkeley General Plan goal to protect local and regional environmental quality, as local stores help to sustain vibrant, compact, walkable town centers, which in turn are essential to reducing sprawl, automobile use, habitat loss, and air and water pollution. As stated in a recent OED report, “small businesses often contribute to sustainable transportation and consumer behavior by providing opportunities for residents to shop locally in neighborhood commercial districts that are accessible by foot, bicycle and transit. Successful initiatives that support small businesses in turn promote both environmental and economic sustainability.”

FISCAL IMPACTS

By regulating formula retail, Berkeley should reap the well-documented benefits of local ownership. As noted above, small and locally-owned businesses stimulate local economies to a greater degree than chain retailers, increasing tax revenues overall. Automobile sales, one of the largest sales-tax generating use uses in Berkeley, is not subject to Formula Retail regulations; income from this sector would not be impacted.

Once established, formula retail regulations will require limited additional staff time to implement, in the form of new Use Permits being processed by the Planning Department. A new form will need to be created for businesses seeking permits to attest to the number of outlets affiliated with their establishment. This and other forms and administrative regulations are easily adapted from San Francisco’s models.

Processing of Formula Retail Use Permits will be done simultaneously with other permit processing, and will only be required in the few instances where a Formula Retail use is seeking to establish itself in a business district that requires a Use Permit for formula retail. In these instances, applicants will pay the usual fees for Use Permit processing, which cover the costs of permit administration.

All non-Formula Retail uses *are exempt* from these regulations, so their permitting process will not be impacted in any way, other than needing to fill out a new form attesting that they do not meet the definition of Formula Retail. A successful formula retail policy will provide significant community and economic benefits and help realize Berkeley’s strong commitment to supporting small and local businesses; incurring few costs for the City of Berkeley and increasing economic activity overall.

OUTCOMES AND EVALUATION

San Francisco did an evaluation of their original Formula Retail regulations ten years after the program was in place. The evaluation resulted in improvements to their ordinance. The version of the San Francisco ordinance proposed for adoption in Berkeley reflects those improvements.

Berkeley’s formula retail regulations will be considered successful if the business community and neighborhoods surrounding Berkeley’s business districts have had the opportunity to weigh in on the appropriateness of bringing specific formula retail uses into the business district, and

some, but not all, formula retail businesses will have received Use Permits. In addition, it is hoped that the implementation of these regulations will result in less rapid inflation of rents, which often reflect rental rates that can be sustained by chains, but are prohibitive for locally owned businesses.

Data about formula retail and the impacts of these regulations should be included in the Office of Economic Development's Economic Dashboards and other reports to the City Council.

CONTACT INFORMATION

Councilmember Sophie Hahn, Council District 5, (510) 981-7150

ATTACHMENTS/SUPPORTING MATERIALS

1. Draft Formula Retail Ordinance for Berkeley
2. Commission Guide for Formula Retail, San Francisco Planning Department, August 2018
3. San Francisco Planning Code Section 303.1: Formula Retail Uses
4. San Francisco Municipal Code Section 703.4: Conditional Use Authorization for Formula Retail Uses
5. San Francisco Municipal Code Section 803.6: Formula Retail Uses in Article 8 Districts
6. Stacy Mitchell, Institute for Local Self-Reliance, "The Impact of Chain Stores on Community"
7. Marie Donahue, Institute for Local Self-Reliance, "Why Care about Independent, Locally Owned Businesses?"

ORDINANCE NO. ####-N.S.

ADDING CHAPTER 23E.XX TO THE BERKELEY MUNICIPAL CODE TO ADOPT THE BERKELEY FORMULA RETAIL ORDINANCE

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That a new Chapter 23E.18 is hereby added to the Berkeley Municipal code to read as follows:

Chapter 23E.18
FORMULA RETAIL USES

Sections:

- 23E.18.010 Findings and Purpose
- 23E.18.020 Applicability
- 23E.18.030 Definitions
- 23E.18.040 Business Districts - Formula Retail Prohibited
- 23E.18.050 Business Districts - Formula Retail Permitted Without Restrictions
- 23E.18.060 Business Districts - Formula Retail Permitted with Use Permit, Neighborhood Notification, Design Review and Findings
- 23E.18.070 Formula Retail Use Permit - Neighborhood Notification - Design Review - Findings
- 23E.18.080 Determination of Formula Retail Use
- 23E.18.090 Change, Enlargement or Intensification of Formula Retail Use

23E.18.010 Findings and Purpose

The Council of the City of Berkeley finds and declares as follows:

- (1) The first goal of the City of Berkeley’s General Plan is to “Preserve Berkeley’s unique character and quality of life.” Berkeley’s diverse and distinct neighborhoods are strongly identified by the local character of their commercial and manufacturing districts.
- (2) A top priority of Berkeley’s General Plan Economic Development and Employment Element is to “support businesses that are independent, locally owned and neighborhood serving.”
- (3) Policy ED-3 of Berkeley’s General Plan Economic Development and Employment Element is to “[p]romote policies, programs, and services that support a diverse local economy providing a range of goods and services, that support existing local businesses, and that encourage new, independent business ventures.”

- (4) Policy ED-3 (E) of Berkeley's General Plan Economic Development and Employment Element speaks directly to the need to regulate chain, formula and big-box businesses by developing and implementing "[p]lanning and zoning mechanisms that promote community-serving commercial diversity and that limit development of undesirable chain stores, formula businesses, and big-box developments without limiting the ability of local businesses to grow and expand and, when needed, to establish additional outlets in various parts of the city."
- (5) Policy ED-4 (B) of Berkeley's General Plan Economic Development and Employment Element, relating to Neighborhood and Avenue Commercial Districts, seeks to "[m]aintain a diverse mix of commercial goods and services in the shopping districts" and to "establish criteria" for "local ownership."
- (6) Policy ED-9.1 of the Downtown Area Plan recommends economic development strategies that encourage the establishment of new businesses with ownership structures that keep consumer dollars in the local economy
- (7) Policy ED-5 (A) of Berkeley's Southside Plan seeks to support the attraction and retention of locally owned, small businesses and provide technical assistance through citywide programs for potential small business owners.
- (8) Policy Goal 7 of the West Berkeley Plan is to, "Protect small businesses, particularly arts and crafts businesses, so they can continue to flourish in West Berkeley."
- (9) Policy Strategies 12 and 13 of the University Avenue Strategic Plan broadly support small and local business. Strategy 13(C) outlines the importance of attracting locally-owned businesses.
- (10) The unregulated establishment of Formula Retail uses negatively impacts business establishment opportunities for smaller and medium-size businesses and decreases the diversity and uniqueness of merchandise and services available to residents and visitors, and the diversity of business owners.
- (12) Formula Retail regulations are in place in numerous California cities that value the local character of business districts and support local, diverse and unique retail stores, services and ownership including San Francisco, Sausalito, San Juan Bautista, Pacific Grove, Ojai and Arcata.
- (13) Formula Retail regulations have been in place for more than 15 years in San Francisco; their impacts have been studied and their regulations have been updated and refined over time, providing a carefully crafted and successful model for Berkeley to adapt and follow.
- (14) Formula Retail regulations, based on the San Francisco model, are inherently flexible, allowing different criteria for Formula Retail to be applied in each district, and allowing for

adjustments over time in response to changing neighborhood and district values, goals and needs.

23E.18.020 Applicability

Formula Retail Regulations shall be applicable in all Commercial (C) and Manufacturing (M) Districts, as defined in BMC Title 23(E).

23E.18.030 Definitions

- A. A **Formula Retail** use is a type of retail sales or service activity or establishment that has twenty (20) or more other retail sales or service activities or establishments in operation, or with local land use or permit entitlements already approved, under the same or different ownership, located anywhere in the world, that maintains two or more of the following features in common with such other activities or establishments:
 - 1. A Standardized Array of Merchandise or Services
 - 2. Standardized Uniform Apparel
 - 3. A standardized Facade
 - 4. Standardized Decor and/or Color Scheme
 - 5. Standardized Signage
 - 6. A standardized Trademark
 - 7. A Standardized Servicemark.

- B. **Business District** shall be defined as any Commercial or Manufacturing District, or portion thereof, with business activities or enterprises clustered together, usually at one or more corners or on contiguous, abutting, confronting or adjacent blocks.

For purposes of this Chapter, Business Districts shall be: *[Business Districts to be recommended by staff or Planning Commission as entire Zoning Districts or meaningful sub-areas of large Zoning Districts. Where a Business District is not an entire Zoning District, the borders of such District, and a name, will need to be expressly provided. The following are examples/suggestions]*

- 1. C-1 - South Telegraph (Parker to Oakland Border?)
- 2. C-1 - University Corridor (MLK to Curtis?)
- 3. C-N - Euclid District *[to be delineated]*
- 4. C-N - Hopkins/Monterey District *[to be delineated]*
- 5. C-N - El Dorado District *[to be delineated]*
- 6. C-N - Alcatraz District *[to be delineated]*
- 7. C-N - Dwight/Sacramento *[to be delineated]*
- 8. C-N - MLK/Virginia *[to be delineated]*
- 9. C-N - Gilman *[to be delineated]*
- 10. C-N - Neighborhood *[Etc. - each node to be delineated]*
- 11. C-E - Elmwood District
- 12. C-NS + C-1 - North Shattuck District (Rose to Hearst)
- 13. C-T Telegraph District
- 14. C-SO Solano District

15. C-DMU - Central Downtown District (University to Bancroft?)
16. C-DMU - North Downtown District (North of University Ave.)
17. C-DMU - South Downtown District (South of Bancroft?)
18. C-SA - Lorin District *[to be delineated]*
19. C-SA - South Sacramento (Stuart to Oakland Border?)
20. C-SA - Dwight/Sacramento *[to be delineated]*
21. C-SA - *[Etc. - each Business District to be delineated]*
22. C-W - Fourth Street (C-W West of 6th from Addison to Virginia?)
23. C-W + C-1 - International District (University from 6th to Curtis & San Pablo from Delaware to Dwight?)
24. C-W - South San Pablo (Dwight to Oakland Border + areas West of San Pablo?)
25. C-W - North San Pablo (Delaware to Albany Border + areas West of San Pablo?)
26. *[ETC.]*

- C. **Standardized Array of Merchandise or Services** shall be defined as 50% or more of merchandise from a single distributor or bearing uniform markings or 50% or more of merchandise or services uniform across activities or establishments in the United States.
- D. **Trademark** shall be defined as a word, phrase, name, symbol or design, or a combination of words, phrases, names, symbols, or designs that identifies and distinguishes the source of merchandise from one establishment from those of others.
- E. **Servicemark** shall be defined as a word, phrase, name, symbol, or design, or a combination of words, phrases, names, symbols or designs that identifies and distinguishes a service or array of services from one establishment from those of others.
- F. **Decor** shall be defined as the style of interior finishes and furnishings, which may include but is not limited to wall coverings, carpeting, furniture, layout, color scheme, interior signage, and fixtures.
- G. **Facade** is defined as provided in BMC Section 23F.04.010
- H. **Signage** is defined as provided in BMC Section 20.08.220.
- I. **Uniform Apparel** shall be defined as standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hats, and pins (other than name tags) and standardized colors of apparel.
- J. **Retail Sales or Service Activity or Retail Sales or Service Establishment**
For the purposes of this Section, a retail sales or service activity or retail sales or service establishment shall include the following uses, whether functioning as a principal, Accessory, Ancillary or Incidental Use.

- Adult-oriented Business
- Alcoholic Beverage Sales
- Alcoholic Beverage Service
- Amusement Device Arcade
- Appliance Store
- Automobile Repair and Service
- Automobile Used Car Establishment
- Bakery
- Bingo Parlor
- Business Support Service
- Cannabis Uses
- Childcare Business or Facility
- Clothing Store
- Commercial Recreation Center
- Dance, Exercise, Martial Arts or Music Studio
- Department Store
- Drive-in Use
- Drugstore
- Dry Cleaning and Laundry Agent
- Entertainment Establishment
- Financial Services, Retail
- Food Products Store
- Food Service establishment
- Gift/Novelty Shop
- Hobby Shop
- Hotel, Tourist
- Personal/household Service
- Retail Products Store
- Service use
- Smoke Shop
- Tobacco Retailers

[These business types are taken from Definitions (+ Tobacco Retailers). There may be additional Business types defined elsewhere in the code to be considered for listing or exclusion]

[NOT included - do not list:

- *Automatic teller machine*
- *Automobile Parts Store*
- *Automobile Rentals*
- *Automobile Sales*
- *Automobile Use Automobile Wrecking Establishment*
- *Chair Massage*
- *Charitable Use*
- *Commercial Use*
- *Community Care Facility*
- *Community and Institutional Use*
- *Firearm/Munitions Business*
- *Gasoline/Automobile Fuel Station*
- *Media Production*
- *Medical Practitioner Office*
- *Mini-Storage Warehouse*
- *Non-Chartered Financial Institution*
- *Nursing Home*
- *Plumbing Shop*
- *Recycling Redemption Center*
- *Seasonal Product Sales*
- *Theater]*

23E.18.040 Business Districts - Formula Retail Prohibited

Formula Retail is prohibited in the following Business Districts:

[list]

[Business Districts where Formula Retail is Prohibited to be recommended through public meetings organized by Economic Development and/or Planning Department in collaboration with Councilmember representatives of Business Districts. Notice for such meetings shall, at a minimum, be the same as required notice to obtain a Use Permit for Formula Retail. Several Business Districts can be considered at one meeting. Recommendations go to Planning Commission(?) and then Council for approval]

23E.18.050 Business Districts - Formula Retail Permitted Without Restrictions

Formula Retail is permitted without restrictions in the following Business Districts:

[list]

[Business Districts where Formula Retail is allowed without restriction to be recommended through public meetings organized by Economic Development and/or Planning Department in collaboration with Councilmember representatives of Business Districts. Notice for such meetings shall, at a minimum, be the same as required notice to obtain a Use Permit for Formula Retail. Several Business Districts can be considered at one meeting. Recommendations go to Planning Commission(?) and then Council for approval]

23E.18.060 Business Districts - Formula Retail Permitted with Use Permit, Neighborhood Notification, Design Review and Findings

Formula Retail or specific types of Formula Retail is permitted with a Use Permit, Neighborhood Notification, Design Review and Findings in the following Business Districts:

[list]

[Business Districts where Formula Retail is allowed with a Use Permit, Neighborhood Notification, Findings and Design Review to be recommended through public meetings organized by Economic Development and/or Planning Department in collaboration with Councilmember representatives of Business Districts. Notice for such meetings shall, at a minimum, be the same as required notice to obtain a Use Permit for Formula Retail. Several Business Districts can be considered at one meeting. Recommendations go to Planning Commission(?) and then Council for approval.]

Formula Retail with a Use Permit may be allowed in a District only for certain Retail Sales or Service Activity or Retail Sales or Service Establishment types (and not for others) and, in addition to the findings required for a Use Permit and findings required for Formula Retail (Section 23E.18.070), may be subject to additional findings unique to a specific District or type of Retail Sales or Service Activity or Retail Sales or Service Establishment (i.e., restaurants, financial services, etc.)]

23E.18.070 Formula Retail Use Permit - Neighborhood Notification - Design Review - Findings

To obtain a Use Permit for a Formula Retail use, in addition to the requirements at Chapter 23B.32, in this Chapter, and elsewhere in the Berkeley Municipal Code, Neighborhood Notification, Design Review and additional findings are required, as provided below:

- A. **Neighborhood Notification.** In addition to the public notice requirements for a Use Permit pursuant to Section 23B.32.020, public notice shall include all businesses and

residents (all mailing addresses) and all owners of properties within the Business District where the Formula Retail use is proposed and within a 500 foot radius of the proposed Formula Retail use.

- B. **Design Review.** Facades, Signage and all other features visible from the public right of way shall be subject to Design Review pursuant to BMC Sections 23B.08, 23E.08, and 23E.12 and in accordance with Design Review Guidelines promulgated pursuant to BMC Section 23E.08.040.A.
- C. **Findings.** In addition to the Use Permit findings required in BMC 23B.32.040 and any additional findings required by this Chapter or the Berkeley Municipal Code, the Zoning Adjustments Board shall make the following findings with regard to any proposed Formula Retail use:
1. The Formula Retail use at its proposed location conforms with or largely supports the Purposes, as stated in BMC Title 23E, of the Commercial or Manufacturing District in which such use is proposed. In making this finding, all Purposes for the Commercial or Manufacturing District in which the Formula Retail Use is proposed shall be explicitly considered.
 2. The Formula Retail use at its proposed location conforms with or largely supports any Plan adopted by the City Council that covers some or all of the Business District in which it is proposed. Such plans include, but are not limited to, the Southside Plan, the South Shattuck Strategic Plan, the University Avenue Strategic Plan, the West Berkeley Plan and the South Berkeley Area Plan and Appendices.
 3. The existing concentration of Formula Retail uses is appropriate for the Business District in which the Formal Retail use is proposed, and the addition of the Formula Retail use will not substantially change the character of the Business District, nor contribute to, or create, an over-concentration of Formula Retail within the Business District.
 4. The proposed Formula Retail use provides goods or services that are not otherwise available within the Business District or that would complement existing uses.
 5. The proposed Formula Retail use is compatible with the existing architectural and aesthetic character of the district.
 6. In Business Districts with average vacancy rates of more than [10%? 5%?] over the 3 years preceding the year in which the application for the Formula Retail Use Permit was filed, the proposed Formula Retail Use will bring needed vitality to the Business District.

23E.18.080 Determination of Formula Retail Use

- A. In Business Districts in which Formula Retail uses are prohibited pursuant to Section 23E.18.040 or subject to a Use Permit pursuant to Section 23E.18.060, any application for a [Business License or Zoning Permit] determined by the City to be for a Formula Retail use that does not identify the use as a Formula Retail use is incomplete and cannot be processed until the omission is corrected.
- B. Any [license granted or] entitlement approved that is determined by the City to have been, at the time of application, for a Formula Retail use that did not identify the use as Formula Retail is subject to revocation at any time.
- C. If the City determines that a [license or] entitlement, or an application for the same, is for a Formula Retail use, the applicant or holder of the license or entitlement bears the burden of proving to the City that the proposed or existing use is not a Formula Retail use.

23E.18.090 Change, Enlargement or Intensification of Formula Retail Use

- A. In Business Districts subject to to BMC Section 23E.18.040, a change to another Formula Retail use or enlargement or intensification in use for a nonconforming Formula Retail use is prohibited.
- B. In Business Districts subject to BMC Section 23E.18.060:
 - 1. Enlargement or intensification of existing Formula Retail uses and changes of Formula Retail from one use category to another, including a change from one use to another within the sub-categories of uses set forth in the definitions of Food Products Store, Food Service Establishment, Personal/Household Service and Retail Products Store at BMC Section 23R.04.010, require a new Formula Retail Use Permit.
 - 2. Changes of Formula Retail owner or operator within the same use category do not require a new Use Permit but any changes to the Facade, Signage and other features visible from the public right of way are subject to Design Review, applied and approved administratively by the Zoning Officer [subject to an appropriate fee as set forth in XXX.]

[Concept to Consider from SF Regs - add to .070(C)(3)?: To determine the existing concentration of Formula Business Uses within a Business District, the Planning Department shall calculate the percentage of the total linear street frontage within the Business District that is occupied by Formula Retail and non-Formula Retail businesses. For each property, the Planning Department shall divide the total linear frontage of the lot facing a public-right of way by the number of storefronts, and then calculate the percentage of the total linear frontage for Formula Retail and non-Formula Retail.

Use Tables for each C and M District will need to be amended to specify the conditions under which Formula Retail, if any, is allowed in the District or in Business Districts within the District, and additional District or Business District-specific findings, if any, required]

DRAFT



SAN FRANCISCO
PLANNING
DEPARTMENT

Commission Guide for Formula Retail

DETERMINING LOCATIONAL APPROPRIATENESS AND
PERFORMANCE-BASED DESIGN GUIDELINES

SAN FRANCISCO PLANNING DEPARTMENT | UPDATED: AUGUST 2018





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Cover Photograph: GGP Inc.

The purpose of this document is to evaluate the appropriateness of each individual formula retail establishment's use, design, and necessity, to help preserve the character of the City's neighborhoods.



Photos by Matthew Dito

PURPOSE

The Commission Guide to Formula Retail is intended to maintain the character and aesthetic qualities of San Francisco neighborhoods. It is designed to encourage harmony between retailers and the districts they reside in.

This document seeks to promote such harmony in two ways. First, the document establishes the methodology the Department will use in evaluating the appropriateness of the formula retail use in the neighborhood. Second, this document articulates Performance-Based Design Guidelines to ensure that the proposed formula retail use is aesthetically compatible with the neighborhood.

RELEVANT CODE SECTIONS

Section 303.1: Formula Retail Uses

Section 703.4: Conditional Use Authorization for Formula Retail Uses

Section 803.6: Formula Retail Uses in Article 8 Districts

Article 6: Signs

Article 11: Preservation of Buildings and Districts of Architectural, Historical, and Aesthetic Importance in the C-3 Districts

INTRODUCTION

Formula retail can act as a homogenizing force in neighborhoods if its presence overwhelms neighborhood character. Formula retail, by nature, is repetitive. If not properly regulated, this repetition can detract from San Francisco's vibrant neighborhoods by inundating them with familiar brands that lack the uniqueness the City strives to maintain.

San Francisco is a city of surprises. Its diverse and distinct neighborhoods are identified in large part by the character of their commercial areas. This feeling of surprise invites both residents and visitors alike to explore the City.

Urban neighborhood streets should invite walking and bicycling. The City's mix of architecture contributes to a strong sense of neighborhood community within the larger City. Many formula retail concepts are developed and refined in suburban locations. Standard store design that primarily accommodates automobile traffic may not work in dense, transit-oriented cities.

The Performance-Based Design Guidelines can improve pedestrian walkability and encourage more walking in neighborhoods by helping to preserve a safe, aesthetically pleasing area that feels connected from beginning to end. This is achieved by improving pedestrian accessibility and by creating stores with unique visual identities that also don't overpower one another.

The increase of formula retail businesses in the City's neighborhood commercial areas, if not monitored and regulated, will hamper the City's goal of a diverse retail



While any one formula retail establishment may fit well in a neighborhood, overconcentration of formula retail can degrade the character of a street.

Illustration by Raven Keller
for The Bold Italic

base with distinct neighborhood retailing personalities comprised of a mix of businesses.

These standards are intended to lessen the visual impacts that the repetitiveness of formula retail brings by first evaluating whether the formula retail use is either necessary or desirable in the neighborhood. See a discussion of this topic in Part I: Determining Locational Appropriateness. Once the use is deemed appropriate, the next step is to ensure aesthetic compatibility. For more information on this topic, see "Part II: Performance-Based Design Guidelines."

While a factor in the homogenization of neighborhoods, formula retail does provide lower-cost goods and services, and is generally recognized to provide more employment opportunities to minorities and low-income workers. Formula retail is neither good nor bad – and it plays an irrefutable role in the City. To best accentuate the benefits of formula retail, the City should regulate it with care, helping to reduce its standardized features.

San Francisco needs to protect its vibrant small business sector and create a supportive environment for new business innovations. One of the eight Priority Policies of the City's General Plan resolves that "existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhances."

The Planning Department recognizes the benefits formula retail can bring to the City. Where the use would provide a necessary or desirable addition to the neighborhood, staff will work with applicants to improve their aesthetics, including signage, storefront design, transparency, and pedestrian accessibility, to help them successfully integrate into San Francisco's neighborhoods.

I. Determining Locational Appropriateness

For every conditional use authorization the Planning Commission must determine if the proposed use is necessary or desirable for the community and compatible with the neighborhood, per Planning Code Sec. 303(c) (1). Beyond the general consideration of “necessary or desirable,” the Commission reviews five more specific criteria in consideration of conditional use authorization for formula retail. This document establishes the methodology the department will use in assessing these five determining criteria, as required by Planning Code Sec. 303.1.

Determining location appropriateness should be by informed quantitative and qualitative analysis. In general, professional discretion should be used to identify factors not specifically required in this document. For example, if a daily need use is located immediately outside the selected appropriate vicinity, it should still be discussed in the case report. In addition to analyzing the five Planning Code required criteria, professional analysis of locational appropriateness should include the following:

A characterization of the district as a whole, based on the stated intent of the district as well as how the district has evolved since it was created. Describe the scale and massing of buildings and uses. Discuss the dominant design orientation people vs. auto-orientation. Consider if the district can be described in other ways: family oriented, entertainment district, culturally-specific, for example. Determine whether there are capital

improvements or large development projects in the pipeline.

A characterization of the immediate vicinity of the proposed establishment location. A characterization of the immediate vicinity within 300’ of the subject property is a standard distance that would generally be appropriate. For projects that require conditional use authorization for use size, or occupy a tenant space larger than 10,000 square feet, a one-quarter mile vicinity is more appropriate and should be used. The vicinity concentration should include all commercial uses, not just those within the same Zoning District.

A description of the commercial nature of the district. Are there retail anchors or clusters present or developing? Are there retail or other trends emerging?

Identification of long term vacancies and/or any commercial use related issues and concerns.

Identification of the unique characteristics of the District and/or neighborhood, where appropriate.

CRITERIA AND METHODOLOGY

The five criteria and methodology for analyzing locational appropriateness should be examined as described below:

Existing concentrations of formula retail uses within general vicinity of the proposed project.

- The concentration of formula retail uses is the percentage (%) of formula retail ground floor commercial uses amongst all ground floor commercial uses within the vicinity.
- Generally, the appropriate “vicinity” when determining a concentration is 300’. However, if the proposed use requires conditional use authorization for use size, or proposes to occupy a tenant space that is equal to or greater than 10,000 square feet, a one-quarter mile vicinity should be used.
- Calculation shall include all parcels that are wholly or partially located within the selected radius that are also zoned commercial or contain commercial uses.
- An evaluation of the linear frontage concentration of formula retail establishments within the selected vicinity shall be done.
- An evaluation of the linear frontage concentration of formula retail establishments within the selected vicinity. Concentration is based on Planning Commission Resolution No. 18843, adopted on April 11, 2013 and summarized below. Staff will calculate the concentration of formula retail linear frontage within the selected vicinity of the subject property. Corner parcels are more heavily weighted when counting linear frontage due to their greater aesthetic impacts.
- The methodology is as follows: for each property, including the subject property, the total linear frontage of the lot facing a public right-of-way is divided by the number of storefronts. Formula retail storefronts and their linear frontage are separated from the non-formula retail establishments and their linear frontage. The final calculations are the percentages (%) of formula retail and non-formula retail frontages (half of a percentage shall be rounded up).
- An evaluation of the number of formula retail uses as a percentage (%) of all commercial uses within the selected vicinity. This calculation will count all ground floor storefronts as a commercial use.

→ The Department does not identify an ideal concentration threshold because it varies significantly by zoning district. This variation is based on pre-existing uses, vacancy rates, massing and use sizes, and neighborhood needs. Comparisons of the formula retail concentration to citywide numbers and to comparable neighborhoods are encouraged.

→ Concentration thresholds may also vary significantly based on proximity to a zoning district more favorable to formula retail, or to a Commercial District that principally permits formula retail.

The availability of other similar uses within the vicinity of the proposed project.

- An evaluation of similar retail uses within the district requires a concentration calculation of retail sales and/or service uses that offer the similar products or services to those being proposed. This concentration shall be based on the number of available uses as a percentage of all commercial uses.
- Using the same selected appropriate vicinity as identified in criterion 1B, an evaluation and accompanying map shall be produced showing the location of similar uses throughout the vicinity. If no similar uses are available within the vicinity or district, the closest offerings may be identified.

The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the district.

- Use the Performance-Based Design Guidelines to ensure compatibility with the signage, storefront design, storefront transparency, and pedestrian accessibility.
- Identify the business’ place in the District (corner, anchor, recessed from street) and whether it is in a protected viewshed in the General Plan.

The existing retail vacancy rates within the district.

- Identify current vacancy rates in district and compared to historic vacancy rates, if this information is available.

→ Identify vacancies within the selected vicinity and discuss the conditions and potential impacts of vacant buildings within the selected vicinity.

The existing mix of Citywide-serving retail uses and daily needs serving retail uses within the appropriate vicinity of the proposed location. Neighborhood Commercial Districts are intended to serve the daily needs of the neighborhood residents. As such, daily needs service retailers are those that provide goods and services that residents want within walking distance of their residence or workplace.

It is important to note that formula retail uses can also be daily needs serving uses; the terms are not mutually exclusive. For example, banks and other financial institutions are subject to formula retail controls; however, having a bank within walking distance is a valuable amenity to a neighborhood.

→ Evaluate the provision of daily needs for the immediate vicinity in relation to the district's defined intent. Some districts are intended to only support residents. Conversely, the district may be intended to meet resident needs and wider shopping or tourist needs.

→ The following uses are considered "Daily Needs" uses:

- Limited Restaurant, as defined by Planning Code Sec. 102
- Specific Other Retail, Sales, and Services, as defined by the following subsections of Planning Code Sec. 102:
 - (a) General Grocery
 - (b) Specialty Grocery
 - (c) Pharmaceutical drugs and personal toiletries
 - (e) Self-service Laundromats and dry cleaning
 - (f) Household goods and services
 - (g) Variety merchandise, pet supply stores, and pet grooming services
 - (l) Books, music, sporting goods, etc.
- Personal services, as defined by Planning Code Sec. 102
- Limited Financial Service, as defined by Planning Code Sec. 102, and/or Financial Service, as defined by Planning Code Sec. 102
- Trade Shops as defined by the following subsections of Planning Code Sec. 102
 - (1) Repair of personal apparel, accessories, household goods, appliances, furniture and similar items, but excluding repair of motor vehicles and structures
 - (6) Tailoring

II. Performance-Based Design Guidelines



FORMULA RETAIL SIGNAGE

This section establishes design guidelines to ensure the aesthetic compatibility of formula retail uses.

Signage creates visual impacts which affect how residents feel about their neighborhood and play a role in the attraction of visitors who are important to the City's economy. Signs serve as markers and create individual identities for businesses that add to the greater identity of a neighborhood and district, hence the need for guidelines to ensure compatibility between businesses and their surroundings.

Formula retail uses can have a homogenizing effect on neighborhood character. This is largely due to standardized signage and branded features that promote recognition. These Performance-Based Design Guidelines seek to minimize the uniform aspects of formula retail signage.

Business signs are generally regulated to ensure an appropriate and equitable degree of commercial communication without contributing to visual clutter.

Photos by Matthew Dito



Scale of sign is inappropriate and extends beyond the storefront entrance.



Sign does not extend out and beyond the width of the storefront opening.

Signage guidelines for formula retail business signs¹ are as follows:

- One sign per tenant shall be permitted. A ground floor establishment with a corner storefront may have one sign on each building façade. Signs should not extend beyond with width of the storefront opening.
 - Signage, painted on glass doors, windows, and transoms, where the sign does not exceed 25% of the glazed area, is permitted.
 - Sign depth should be reduced by placing the transformer in a remote location and not housed within the sign itself.
 - Signs that are located on the inside of a storefront should be setback a minimum of 6" from the display glass.
 - Scale of signs and placement on the building should be appropriate to the elements of the building and the character of the neighborhood.
- Upper story establishments with a corner storefront may have one sign adjacent to the building entrance. It should be a small identification sign or plaque, installed adjacent to the ground floor entrances.
 - Signs should be constructed of durable high-quality materials that retain their characteristics within a high-traffic area over time. Acrylic and vinyl signs are discouraged.
 - Signage is to be scaled and placed primarily for pedestrian legibility, and secondarily for vehicular visibility.
 - Materials should be compatible with the craftsmanship, and finishes associated with the District. Glossy or highly reflective surfaces will not be approved.
 - Signs should be attached in a manner that avoids damaging or obscuring any of the character-defining features associated with the subject building. Signs should be attached in a manner that allows for their removal without adversely impacting the exterior of the building, ideally pin-mounted.

¹ A business sign is defined as a sign which directs attention to a business, commodity, service, industry, or other activity which is sold, offered, or conducted, other than incidentally, on the premises upon which such sign is located, or to which it is affixed.

Photos by Matthew Dito



NOT RECOMMENDED

There is an excessive number of wall signs attached to the building facade, and the windows are covered, preventing visibility.



NOT RECOMMENDED

Sign is directly lit with visible lighting conduits.



NOT RECOMMENDED

Scale, placement, and design of sign are inappropriate to the building and its surroundings.



RECOMMENDED

A corner storefront with one sign on each building facade, as permitted.



RECOMMENDED

Sign is indirectly lit with a reduced profile due to a light emitting diode (LED) method of illumination.



RECOMMENDED

Sign is attached above the entrance bay, and does not detract from the buildings aesthetic qualities.

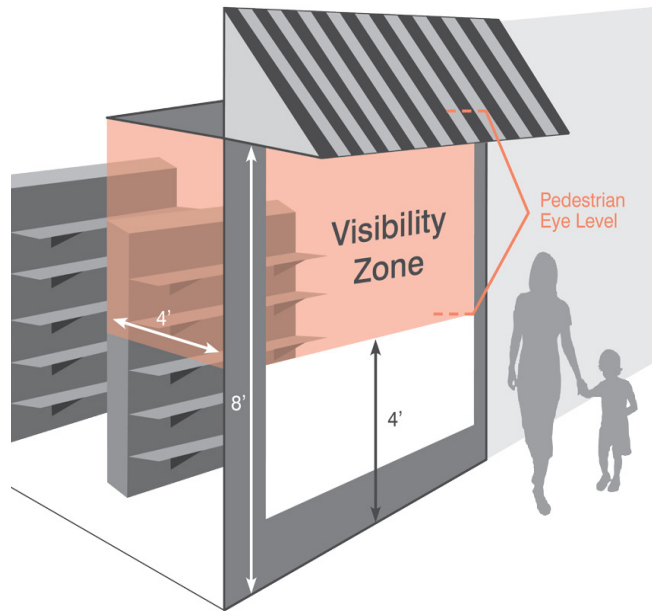
- Signs should be externally illuminated, or appear to be indirectly illuminated, such as by installing an external fixture to illuminate the sign or by using a reverse channel halo-lit means of illumination.
- Signs should have an opaque background that does not transmit light and text.
- Signs should be minimized in profile or depth, for example, by using a light emitting diode method of illumination.

- Sign legibility shall be of minimum appropriate intensity to be visible while not being visually dominating.
- Signage lights should be dimmed or off when business is closed.
- Businesses should not use exterior digital or LED screens to amplify branding beyond the signage limits.

FORMULA RETAIL TRANSPARENCY

A transparent storefront welcomes customers inside with products and services on display, discourages crime with more “eyes on the street”, reduces energy consumption by allowing natural light into stores, and enhances the curb appeal and value of the store, as well as the entire neighborhood. As mentioned earlier, successful city living depends on surprise to maintain interest. Even if the formula retailer is familiar, a view into the store may spur interest in the people and products inside.

The City strives to ensure that tenant spaces remain transparent to the exterior, contribute to the activity of the public realm and do not devolve into de facto sign boards for tenants.



Visibility Requirements

To ensure visibility into active spaces, any fenestration provided at eye level must have visibility beyond a window display and into the store.

The following definitions apply:

- **Pedestrian Eye Level:** the space between 4-feet and 8-feet in height above the adjacent sidewalk level, following the slope if applicable.
- **Visibility to the Inside of the Building:** the area inside the building within 4-feet of the window surface at pedestrian eye level must be 75 percent (%) open to perpendicular view.

Therefore, any fenestration of frontages with active uses must have visibility to the inside of the building with at least 75 percent (%) open to perpendicular view with a 4-foot by 4-foot “visibility zone” at pedestrian eye level. In addition, 60 percent (%) of all street frontages must be transparent windows, while any railings or grillwork placed in front of or behind storefront windows must be at least 75 percent (%) transparent at a perpendicular view.

To ensure visibility, business signs may not exceed one-third the area of the window in which the sign is located. The Department will work with applicants to improve visibility wherever possible.

The Performance-Based Design Guidelines require formula retail applicants to work with staff to determine what transparency improvements can be made. Changes required may include converting windows to transparent glazing, relocating shelving and displays away from windows, or removing security grilles and other window coverings.

Photos by Matthew Dito



NOT RECOMMENDED

Views through the frontage fenestration are obstructed by advertising signs and business identifiers.



NOT RECOMMENDED

The 4-foot by 4-foot visibility zone inside the establishment is obstructed by excessive signage.



NOT RECOMMENDED

The security grille does not have at least 75% transparency at a perpendicular view.



RECOMMENDED

The space between 4 feet and 8 feet above the sidewalk has at least 75% of its frontage fenestrations open to perpendicular view.



RECOMMENDED

Limited window signage maximizes visibility inside the store.



RECOMMENDED

The security grille allows for visibility of at least 75% at a perpendicular view.

What This Means For Formula Retail Uses

1. Windows that have been covered over with boards, film, or paint must be restored to transparency.
2. Security gates or grillwork on the inside or outside of the window glass must be primarily transparent (at least 75 percent (%) open to perpendicular view).
3. Shelving, display cases, appliances, and other items placed within four feet of the window glass must be no taller than four feet or be primarily transparent (at least 75 percent [%] open to perpendicular view).
4. All exterior signs must have a sign permit or must be removed.
5. Business signs affixed to the window (painted or adhered to the glass) can be no larger than one-third the size of the window on which they are placed.

FORMULA RETAIL STOREFRONT DESIGN

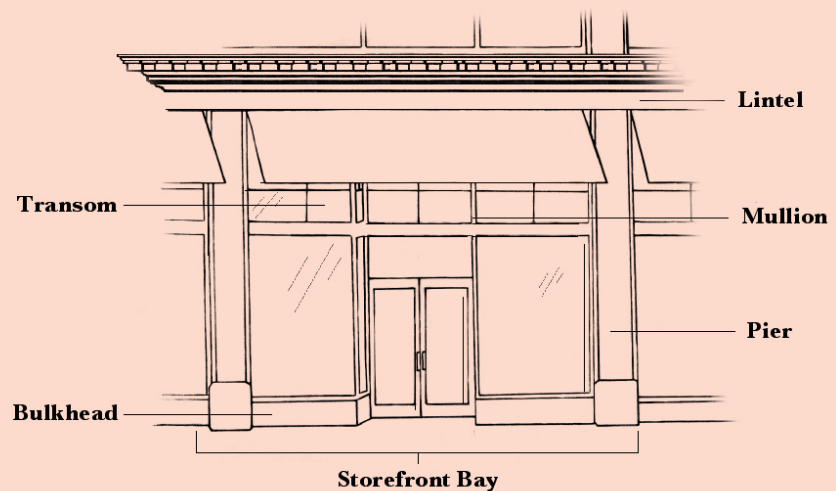
Storefront design can be used to extend branding beyond the dimensions of signage. To maintain emphasis on architecture and to prevent formula retail from overwhelming neighborhood character, it's important to prevent facades from becoming defacto branding opportunities.

Historic qualities present in a storefront should be preserved and maintained, as well as integrated into additions or modifications made to the storefront. The most successful storefronts combine contemporary design with sensitivity to the character defining storefront components.



Storefront Components

The components of Performance-Based Design Guidelines for Storefront Design are: facades and street walls, corner lots, storefront bays, entrances, bulkheads, and display windows.



TYPICAL FEATURES INCLUDE:

Bulkhead: The low paneled base of a storefront bay that supports the glazing and elevates merchandise for pedestrian viewing.

Façade Materials: Original exterior cladding, typically brick, wood or stone provide a sense of permanence, scale and texture and often convey the work of skilled craftsmen.

Lintel: The horizontal structural element that spans above the storefront bays to support the weight of the upper façade.

Mullion: The vertical element that separates window units or storefront glazing; typically not a structural support for the building.

Pier: The vertical structural or decorative elements, also known as a column, which supports and/or frames the glazing.

Storefront Bay: Defined by the height of the lintel and separated by piers, a storefront bay is composed of bulkhead, glazing, transom, and entry.

Transom: The small, operable or inoperable framed windows above the glazing and below the lintel that filter light into the ground floor space; sometimes sheltered by awnings.

Photos by Matthew Dito



Design, including colors, finish, and texture, is inconsistent with the surrounding buildings.



Storefront design is consistent with surrounding buildings, and the setback creates a continuous street wall and edge.

Façades and Street Walls

The façade is the exterior wall of the building, or frontage, and should utilize traditional building materials such as terra cotta, brick, stone, and scored stucco. The color should be limited to different tones of one color, and said color should be similar in profile to the surrounding buildings. Buildings should have a finished texture that is smooth and painted with a satin or light finish. Color washing an entire storefront to extend branding detracts from the character of a neighborhood and will not be permitted.

The design should remain consistent with surrounding buildings in the neighborhood. As such, the setback should be as such that it creates a consistent, continuous street wall and edge.

Corner Lots

Many buildings on corner lots exhibit special features that emphasize the corner and add accent to both intersecting streets, providing visual interest to pedestrians. Corner entrances, storefront windows, and displays that extend along both street façades emphasize corner lots are encouraged.

Where entrances are not located at the corner, storefront windows should turn the corner, in addition to windows on each side of the building.

Storefront Bays

Appropriate alignment and proportions of the storefront bay are critical in creating a unified appearance within the district.

Windows should be consistent in height and design with storefront doors to create a cohesive appearance, however, slight variations in alignment can add visual interest. Piers and lintels should be treated and designed as a single component. The lintel establishes the top of the storefront bay, visually separating it from upper floors. Proper proportions must be maintained between windows and the lintel. Elements such as signs and awnings that obscure the spacing of the bays or other elements that define those bays should be avoided. Colors should be similar in profile to the surrounding buildings, and limited to different tones of one color.

Entrances

Typically, entrances are recessed by about two to six feet from the sidewalk, allowing for protection from the rain, providing additional display frontage, and creating a rhythm of defined commercial spaces. Together, these features can establish a sense of scale and identify business entrances. In San Francisco, entrances for people should be emphasized and entrances for cars should be minimized.

A service door may also exist for access to building systems.



Colorwashing a building facade in branded color serves as oversized signage and is not permitted.

Bulkhead

The bulkhead is the one to two foot high based of the building, upon which the storefront display window is placed. Traditionally, bulkheads are made of painted wood, decorative metal, small ceramic tiles, or masonry. Replacements should match or be compatible with original materials. Bulkheads should be consistent with surrounding buildings in the neighborhood, and are typically between 18 inches and 24 inches.



Transparent display with simple, effective signage on the bulkhead.

Storefront Displays

Storefront display windows typically consist of large panes of plate glass set in metal or wood frames, with the primary purpose of allowing passerby to see goods or services available inside. Individual panes of a window are separated by mullions, which should be as narrow and as limited in number as possible. This maximizes visibility into interior activity and merchandising.



While the establishment utilizes the corner lot with its entrance, the facade and bulkhead are incompatible with the surrounding buildings.

Photos by Matthew Dito

PEDESTRIAN ACCESSIBILITY

Ensuring that businesses are easily accessible creates a more inviting environment in commercial neighborhoods. For smaller formula retail establishments, pedestrian accessibility is usually not a problem. Larger formula retail establishments, however, tend to limit and control entrances. A suburban design may cater to those who arrive by car. In order to preserve the City's walkable character, formula retail in particular must be designed for pedestrians. Entrances that are distinguishable from the façade of a building invite and allow pedestrian access. Entrances should be located in a manner that keeps with the rhythm established by surrounding buildings. This consistency creates a familiarity that draws the attention of pedestrians.

Requirements for pedestrian accessibility are as follows:

- All businesses must have an ADA compliant entrance
- Corner lot locations should have at least an entrance on the corner, or one on each street
- Improve the pedestrian environment with clearly visible, easy, safe routes to business entries, including through parking lots and to the public sidewalk and transit stops.
- Provide pedestrian access onto the site from the main street on which the business is located.
- All existing street-facing doors, with the exception of emergency and service entrances, shall remain unlocked and open to the public during regular business hours.



The business entrance is not distinguishable from the corner lot window, and is located in a manner that does not utilize or promote pedestrian access to the building.



Business entrances are distinguishable from the building facade with a consistent rhythm that creates a familiarity to draw attention of pedestrians. Entrances are also visually compatible with the entrances to upper residences.

Photos by Matthew Dito

LIMITED FINANCIAL SERVICES

Limited Financial Services are defined in Planning Code Sections 102 as a retail use which provides banking services, when not occupying more than 15 feet of linear frontage or 200 square feet of gross floor area. Automated teller machines (ATM), if installed within such a facility or on an exterior wall as a walk-up facility, are included in this category. A Conditional Use authorization is required for all Limited Financial Services that are also a formula retail use, with the exception of single automated teller machines located within another use that are not visible from the street [Sec. 303.1(b)(13)].

When placing an ATM, the feature should be integrated into the overall composition of the storefront, so as to not detract from the architecture or the quality of the pedestrian experience.

A single ATM at a street façade may be permitted without conditional use authorization if the machine meets the Performance-Based Design Guidelines in this document. A single automated teller machine may not be permitted at the street front if it compromises the storefront's ability to meet other Performance-Based Design Guidelines, including visibility and transparency goals.



This illustration represents the design guidelines for ATMs.

General guidelines for ATMs are as follows:

- Minimize lighting elements and brightness intensity.
- Areas using materials that need to be lit, or backlit, should be minimized.
- ATMs should be proportionate to the storefront or building facade.
- Framing elements should be used, as appropriate, to integrate ATMs into the facade composition.
- Architectural quality should be maximized.

Photos by Matthew Dito



This requires a conditional use permit because there is more than one ATM at the street front.



Colorwashing a building facade in branded color serves as oversized signage and is not permitted.



SAN FRANCISCO
PLANNING
DEPARTMENT

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FAX: **415.558.6409**
WEB: **<http://www.sfplanning.org>**

Planning Information Center (PIC)

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San Francisco CA 94103-2479

TEL: **415.558.6377**

*Planning staff are available by phone and at the PIC counter.
No appointment is necessary.*

San Francisco Planning Code

SEC. 303.1. FORMULA RETAIL USES.**New Ordinance Notice**

Publisher's Note: This section has been **AMENDED** by new legislation (Ord. [205-19](#), approved 9/11/2019, effective 10/12/2019). The text of the amendment will be incorporated under the new section number when the amending legislation is effective.

(a) Findings.

(1) San Francisco is a city of diverse and distinct neighborhoods identified in large part by the character of their commercial areas.

(2) One of the eight Priority Policies of the City's General Plan resolves that "existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced."

(3) Retail uses are the land uses most critical to the success of the City's commercial districts.

(4) Formula Retail businesses are increasing in number in San Francisco, as they are in cities and towns across the country.

(5) San Francisco is one of a very few major urban centers in the State in which housing, shops, work places, schools, parks and civic facilities intimately co-exist to create strong identifiable neighborhoods. The neighborhood streets invite walking and bicycling and the City's mix of architecture contributes to a strong sense of neighborhood community within the larger City community.

(6) Notwithstanding the marketability of a retailer's goods or services or the visual attractiveness of the storefront, the standardized architecture, color schemes, decor and signage of many Formula Retail businesses can detract from the distinctive character and aesthetics of certain Neighborhood Commercial Districts.

(7) The increase of Formula Retail businesses in the City's neighborhood commercial areas, if not monitored and regulated, will hamper the City's goal of a diverse retail base with distinct neighborhood retailing personalities comprised of a mix of businesses. Specifically, the unregulated and unmonitored establishment of additional Formula Retail uses may unduly limit or eliminate business establishment opportunities for smaller or medium-sized businesses, many of which tend to be non-traditional or unique, and unduly skew the mix of businesses towards formula retailers in lieu of unique or start-up retailers, thereby decreasing the diversity of merchandise available to residents and visitors and the diversity of purveyors of merchandise.

(8) If, in the future, neighborhoods determine that the needs of their Neighborhood Commercial Districts are better served by eliminating the notice requirements for proposed Formula Retail uses, by converting Formula Retail uses into conditional uses in their district, or by prohibiting Formula Retail uses in their district, they can propose legislation to do so.

(9) Neighborhood Commercial Districts are intended to preserve the unique qualities of a district while also serving the daily needs of residents living in the immediate neighborhood; however, community members have reported loss of daily needs uses due to inundation of formula retailers that target larger citywide or regional audiences. The City strives to ensure that goods and services that residents require for

daily living are available within walking distance and at an affordable price. Establishments that serve daily needs and Formula Retail establishments are neither mutually exclusive nor completely overlapping.

(10) The San Francisco retail brokers' study of 28 Neighborhood Commercial Districts conducted in 2014 found that the healthiest and most viable retail environments offer a mix of retailers who vary in size and offerings; including a mix of conventional and cutting edge retailers as well as established players and newcomers.

(11) Formula retailers are establishments with multiple locations and standardized features or a recognizable appearance. Recognition is dependent upon the repetition of the same characteristics of one store in multiple locations. The sameness of Formula Retail outlets, while providing clear branding for consumers, counters the general direction of certain land use controls and General Plan Policies which value unique community character and therefore need controls, in certain areas, to maintain neighborhood individuality.

(12) The homogenizing effect of Formula Retail, based on its reliance on standardized branding, is greater if the size of the Formula Retail use, in number of locations or size of use or branded elements, is larger. The increased level of homogeneity distracts from San Francisco's unique neighborhoods, which thrive on a high level of surprise and interest maintained by a balanced mix of uses and services, both independent and standardized.

(13) Due to the distinct impact that Formula Retail uses have on a neighborhood, these uses are evaluated for concentration as well as compatibility within a neighborhood. As neighborhoods naturally evolve over time, changes and intensifications of Formula Retail uses should also be re-evaluated for concentration and compatibility within a neighborhood.

(14) According to an average of ten studies done by the firm Civic Economics and published by the American Independent Business Alliance in October of 2012, spending by independent retailers generated 3.7 times more direct local spending than that of Formula Retail chains.

(15) Money earned by independent businesses is more likely to circulate within the local neighborhood and City economy than the money earned by Formula Retail businesses which often have corporate offices and vendors located outside of San Francisco.

(16) According to a 2014 study by the San Francisco Office of Economic Analysis (OEA) report "Expanding Formula Retail Controls: Economic Impact Report" the uniqueness of San Francisco's neighborhoods is based on a combination of unique visual characteristics and a sense of community fostered by small merchants and resident relationships. A Formula Retail establishment is determined by its recognizable look which is repeated at every location, therefore, detracting from the unique community character.

(17) The OEA Report found that in general, chain stores charge lower prices and provide affordable goods, but may spend less within the local economy, and can be unpopular with some residents because they can be seen to diminish the character of the neighborhood. At the same time, this OEA Report found that excessively limiting chain stores can reduce commercial rents and raise vacancy rates.

(18) Through a 2014 study commissioned by the Planning Department, titled "San Francisco Formula Retail Economic Analysis," staff and consultants conducted one-on-one interviews and worked with small groups including independent retailers, small business owners, merchants associations, formula retailers, commercial brokers, neighborhood representatives and other stakeholders. The Study found that landlords often perceive a benefit in renting to large established chains, which landlords believe typically have better credit and can sign longer leases than local, independent retailers, lowering the risk that the tenant will be unable to pay its rent. The existing land use controls for Formula Retail may create a disincentive for formula retailers to locate where the formula retail controls apply.

(b) **Definition.** A Formula Retail use is hereby defined as a type of retail sales or service activity or retail sales or service establishment that has eleven or more other retail sales establishments in operation, or

with local land use or permit entitlements already approved, located anywhere in the world. In addition to the eleven establishments either in operation or with local land use or permit entitlements approved for operation, the business maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, uniform apparel, standardized signage, a trademark or a servicemark.

(1) Standardized array of merchandise shall be defined as 50% or more of in-stock merchandise from a single distributor bearing uniform markings.

(2) Trademark shall be defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.

(3) Servicemark shall be defined as word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.

(4) Decor shall be defined as the style of interior furnishings, which may include but is not limited to, style of furniture, wall coverings or permanent fixtures.

(5) Color Scheme shall be defined as selection of colors used throughout, such as on the furnishings, permanent fixtures, and wall coverings, or as used on the facade.

(6) Facade shall be defined as the face or front of a building, including awnings, looking onto a street or an open space.

(7) Uniform Apparel shall be defined as standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hats, and pins (other than name tags) as well as standardized colors of clothing.

(8) Signage shall be defined as business sign pursuant to Section 602.3 of the Planning Code.

(c) **"Retail Sales or Service Activity or Retail Sales or Service Establishment."** For the purposes of this Section 303.1, a retail sales or service activity or retail sales or service establishment shall include the following uses whether functioning as a Principal or Accessory Use, as defined in Articles 1, 2, 7, and 8 of this Code:

- Bar § 102;
- Drive-up Facility §§ 102, 890.30;
- Eating and Drinking Use § 102;
- Liquor Store § 102;
- Sales and Service, Other Retail § 890.102 and Retail Sales and Service, General;
- Restaurant § 102;
- Limited-Restaurant § 102;
- Sales and Service, Retail §§ 102, 890.104;
- Service, Financial §§ 102, 890.110;
- Movie Theater §§ 102, 890.64;
- Amusement Game Arcade §§ 102, 890.4;
- Service, Limited Financial, except single automated teller machines at the street front that meet the Commission's adopted Performance-Based Design Guidelines and automated teller machines located

within another use that are not visible from the street § 102;

- Service, Fringe Financial §§ 102, 890.113;
- Tobacco Paraphernalia Establishment §§ 102, 890.123;
- Massage Establishment §§ 102, 890.60;
- Service, Personal §§ 102, 890.116
- Service, Instructional § 102 ;
- Gym; § 102
- General Grocery § 102;
- Specialty Grocery § 102;
- Pharmacy § 102;
- Jewelry Store §§ 102, 890.51;
- Tourist Oriented Gift Store §§ 102, 890.39;
- Non-Auto Vehicle Sales or Rental §§ 102, 890.69; and
- Cannabis Retail §§ 102, 890.125.

(d) **Conditional Use Criteria.** With regard to a Conditional Use authorization application for a Formula Retail use, the Planning Commission shall consider, in addition to the criteria set forth in Section 303, the criteria below and the Performance-Based Design Guidelines adopted by the Planning Commission to implement the criteria below.

(1) The existing concentrations of Formula Retail uses within the district and within the vicinity of the proposed project. To determine the existing concentration, the Planning Commission shall consider the percentage of the total linear street frontage within a 300-foot radius or a quarter of a mile radius, at the Planning Department's discretion, from the subject property that is occupied by Formula Retail and non-Formula Retail businesses. The Department's review shall include all parcels that are wholly or partially located within the 300-foot radius or quarter-mile radius. If the subject property is a corner parcel, the 300-foot radius or quarter mile radius shall include all corner parcels at the subject intersection. For each property, the Planning Department shall divide the total linear frontage of the lot facing a public-right of way by the number of storefronts, and then calculate the percentage of the total linear frontage for Formula Retail and non-Formula Retail. Half percentage points shall be rounded up.

For the Upper Market Street Neighborhood Commercial District only, if the application would bring the formula retail concentration within a 300-foot radius to a concentration of 20% or above, Planning Department staff shall recommend disapproval of the application to the Planning Commission. If the application would not bring the formula retail concentration within the 300-foot radius to a concentration of 20% or above, Planning Department staff shall assess the application according to all the other criteria listed in this Subsection 303.1(d), and recommend approval or disapproval to the Planning Commission, according to its discretion and professional judgment. In either case, the Planning Commission may approve or reject the application, considering all the criteria listed in this Subsection 303.1(d).

(2) The availability of other similar retail uses within the district and within the vicinity of the proposed project.

(3) The compatibility of the proposed Formula Retail use with the existing architectural and aesthetic character of the district.

(4) The existing retail vacancy rates within the district and within the vicinity of the proposed project.

(5) The existing mix of Citywide-serving retail uses and daily needs-serving retail uses within the district and within the vicinity of the proposed project.

(6) Additional relevant data and analysis set forth in the Performance-Based Design Guidelines adopted by the Planning Commission.

(7) For Formula Retail uses of 20,000 gross square feet or more, except for General or Specialty Grocery stores as defined in Articles 2, 7 and 8 of this Code, the contents of an economic impact study prepared pursuant to Section 303(i) of this Code.

(8) Notwithstanding anything to the contrary contained in Planning Code Article 6 limiting the Planning Department's and Planning Commission's discretion to review signs, the Planning Department and Planning Commission may review and exercise discretion to require changes in the time, place and manner of the proposed signage for the proposed Formula Retail use, applying the Performance-Based Design Guidelines.

(e) **Conditional Use Authorization Required.** A Conditional Use Authorization shall be required for a Formula Retail use in the following zoning districts unless explicitly exempted:

(1) All Neighborhood Commercial Districts in Article 7;

(2) All Mixed Use-General Districts in Section 840;

(3) All Urban Mixed Use Districts in Section 843;

(4) All Residential-Commercial Districts as defined in Section 209.3;

(5) Chinatown Community Business District as defined in Section 810;

(6) Chinatown Residential/Neighborhood Commercial District as defined in 812;

(7) Western SoMa Planning Area Special Use District as defined in 823;

(8) Limited Commercial Uses in RH, RM, RTO, and RED Districts, as permitted by Sections 186, 186.3, and 231;

(9) Third Street Formula Retail Restricted Use District, as defined in Section 786;

(10) The C-3-G District with frontage on Market Street, between 6th Street and the intersection of Market Street, 12th Street and Franklin Street; and

(13)¹ The Central SoMa Special Use District as defined in Section 848, except for those uses not permitted pursuant to subsection (f) below.

(f) **Formula Retail Uses Not Permitted.** Formula Retail uses are not permitted in the following zoning districts:

(1) Hayes-Gough Neighborhood Commercial Transit District;

(2) North Beach Neighborhood Commercial District;

(3) Chinatown Visitor Retail District;

(4) Upper Fillmore District does not permit Formula Retail uses that are also Restaurant or Limited-Restaurant uses;

(5) Broadway Neighborhood Commercial District does not permit Formula Retail uses that are also Restaurant or Limited-Restaurant uses;

(6) Mission Street Formula Retail Restaurant Subdistrict does not permit Formula Retail uses that are also Restaurant or Limited-Restaurant uses;

(7) Geary Boulevard Formula Retail Pet Supply Store and Formula Retail Eating and Drinking Subdistrict does not permit Formula Retail uses that are also either a Retail Pet Supply Store or an Eating and Drinking use as set forth in Section 781.4;

(8) Taraval Street Restaurant Subdistrict does not permit Formula Retail uses that are also Restaurant or Limited-Restaurant uses;

(9) Chinatown Mixed Use Districts do not permit Formula Retail uses that are also Restaurant or Limited-Restaurant uses; and

(10) Central SoMa Special Use District does not permit Formula Retail Uses that are also Bar, Restaurant, or Limited Restaurant Uses as defined in Section 102.

(g) **Neighborhood Notification and Design Review.** Any application for a Formula Retail use as defined in this section shall be subject to the notification and review procedures of Sections 311 or 333, as applicable, of this Code.

(h) **Determination of Formula Retail Use.** In those areas in which Formula Retail uses are prohibited or subject to the provisions of Subsections 303.1(d) or (e), any application for an entitlement or determination determined by the City to be for a Formula Retail use that does not identify the use as a Formula Retail use is incomplete and cannot be processed until the omission is corrected. Any entitlement approved or determination made that is determined by the City to have been, at the time of application, for a Formula Retail use that did not identify the use as a Formula Retail use is subject to revocation at any time. If the City determines that an entitlement or determination, or an application for the same, is for a Formula Retail use, the applicant or holder of the entitlement bears the burden of proving to the City that the proposed or existing use is not a Formula Retail use.

(i) **Performance-Based Design Guidelines.** All new, enlarged, intensified or non-intensified Formula Retail uses or establishments must comply with the Commission's adopted Performance-Based Design Guidelines for Formula Retail, as directed by the Planning Department and Planning Commission.

(j) **Change of Use.** Changes of Formula Retail establishments are generally described below, except that a change of a Formula Retail use that is also a nonconforming use pursuant to Section 182 is prohibited. In all other instances, changes of Formula Retail establishments from one use category to another, including a change from one use to another within the sub-categories of uses set forth in the definition of Retail Sales and Services in Section 102 and in Section 890.102 for Mixed Use Districts, require a new Conditional Use authorization as a new Formula Retail use. Changes of Formula Retail owner or operator within the same use category that are determined to be an enlargement or intensification of use pursuant to subsection 178(c) are required to obtain Conditional Use authorization and shall meet the Commission's adopted Performance-Based Design Guidelines for Formula Retail. In cases determined not to be an enlargement or intensification of use, the Performance-Based Design Guidelines for Formula Retail may be applied and approved administratively by the Planning Department, unless the applicant requests a Conditional Use hearing at the Planning Commission. The applicant shall also pay an administrative fee to compensate Planning Department and City staff for its time reviewing the project under this subsection (j), as set forth in Section 360 of this Code.

(k) **Accessory Uses.** Conditional Use authorization shall be required for all Accessory Uses within those use categories subject to Formula Retail controls as defined in this Section 303.1, except for the following:

(1) Single automated teller machines falling within the definition of Limited Financial Services that are located at the street front that meet the Commission's adopted Performance-Based Design Guidelines for automated teller machines;

(2) Automated teller machines located within another use that are not visible from the street;

(3) Vending machines that do not exceed 15 feet of street frontage or occupy more than 200 square feet of area facing a public right of way.

(Added by Ord. [235-14](#), File No. 140844, App. 11/26/2014, Eff. 12/26/2014; amended by Ord. [22-15](#), File No. 141253, App. 2/20/2015, Eff. 3/22/2015; Ord. [129-17](#), File No. 170203, App. 6/30/2017, Eff. 7/30/2017; Ord. [229-17](#), File No. 171041, App. 12/6/2017, Eff. 1/5/2018; Ord. [202-18](#), File No. 180557, App. 8/10/2018, Eff. 9/10/2018; Ord. [179-18](#), File No. 180423, App. 7/27/2018, Eff. 8/27/2018, Oper. 1/1/2019; Ord. [296-18](#), File No. 180184, App. 12/12/2018, Eff. 1/12/2019)

AMENDMENT HISTORY

Divisions (c)(18) and (19) added; Ord. [22-15](#), Eff. 3/22/2015. Division (a)(9) amended; former divisions (c)(1)-(19) merged into division (c) and current division (c) amended; divisions (d) and (e)(4) amended; former divisions (e)(5) and (e)(9) deleted; former divisions (e)(6)-(8) and (e)(10)-(12) redesignated as (e)(5)-(10) and amended; divisions (g), (j), and (k) amended; Ord. [129-17](#), Eff. 7/30/2017. Division (c) amended; Ord. [229-17](#), Eff. 1/5/2018. Divisions (c), (f)(4)-(6), (f)(8)-(9), and (j) amended; Ord. [202-18](#), Eff. 9/10/2018. Division (g) amended; Ord. [179-18](#), Oper. 1/1/2019. Divisions (e)(13)¹ and (f)(10) added; Ord. [296-18](#), Eff. 1/12/2019.

CODIFICATION NOTE

1. So in Ord. 296-18.

[Print](#)

San Francisco Planning Code

**SEC. 703.4. CONDITIONAL USE AUTHORIZATION FOR
FORMULA RETAIL USES.**

(a) This Section 703.4 shall be known as the Small Business Protection Act.

(b) Except for those zoning districts where Formula Retail uses are not permitted as set forth in Section 303.1(f), establishment of a Formula Retail use, as defined in Section 303.1, in any Neighborhood Commercial District, as identified in Article 7, shall require Conditional Use authorization pursuant to the criteria of Sections 303(c) and 303.1 and be subject to the terms of Sections 303.1(g) and (h).

(c) Nothing herein shall preclude the Board of Supervisors from adopting more restrictive provisions for Conditional Use authorization of Formula Retail use or prohibiting Formula Retail use in any Neighborhood Commercial District.

(Added by Proposition G, 11/7/2006; amended by Ord. [235-14](#), File No. 140844, App. 11/26/2014, Eff. 12/26/2014; Ord. [129-17](#), File No. 170203, App. 6/30/2017, Eff. 7/30/2017)

AMENDMENT HISTORY

Division (b) amended; Ord. [235-14](#), Eff. 12/26/2014. Section amended; Ord. [129-17](#), Eff. 7/30/2017.

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San Francisco Planning Code

SEC. 803.6. FORMULA RETAIL USES IN ARTICLE 8 DISTRICTS.

The Formula Retail controls set forth in Section 303.1 of this Code apply to Article 8 Districts.

(Added by Ord. 204-06, File No. 060482, App. 7/25/2006; amended by Ord. 269-08, File No. 081234, App. 11/25/2008; Ord. [298-08](#), File No. 081153, App. 12/19/2008; Ord. [140-11](#), File No. 110482, App. 7/5/2011, Eff. 8/4/2011; Ord. [75-12](#), File No. 120084, App. 4/23/2012, Eff. 5/23/2012; Ord. [106-12](#), File No. 120047, App. 6/22/2012, Eff. 7/22/2012; Ord. [42-13](#), File No. 130002, App. 3/28/2013, Eff. 4/27/2013; Ord. [56-13](#), File No. 130062, App. 3/28/2013, Eff. 4/27/2013; Ord. [235-14](#), File No. 140844, App. 11/26/2014, Eff. 12/26/2014)

AMENDMENT HISTORY

Section amended in its entirety; Ord. [235-14](#), Eff. 12/26/2014.



The Impact of Chain Stores on Community

BY STACY MITCHELL | DATE: 18 APR 2000 |

A speech by ILSR's Stacy Mitchell delivered at the annual conference of the American Planning Association, April 2000

Chain store proliferation has weakened local economies, eroded community character, and impoverished civic and cultural life. Moreover, consolidation has reduced competition and may harm consumers over the long-term. Contrary to conventional wisdom, the decline of independent businesses is not inevitable, nor is it simply the result of free market forces. Rather, public policy has played a major role, particularly through tax incentives and other development subsidies that give national chains a significant advantage. Meanwhile, a growing number of communities are taking a different approach. They are adopting land use rules that deter chain stores and actively encourage local ownership.

Let me begin by reading something that Jane Jacobs wrote in her book, *The Death and Life of Great American Cities*, about the relationship between locally owned businesses and community. Community is one of those words so overused that we rarely pause to consider its meaning. For Jacobs, what constitutes community is not any one particular thing, but rather the many small interactions that occur in our everyday lives.

"It grows," she writes, "out of people stopping by the bar for a beer, getting advice from the grocer and giving advice to the newsstand man, comparing opinions with other customers at the bakery and nodding hello to the two boys drinking pop on the stoop . . . hearing about a job from the hardware man and borrowing a dollar from the druggist . . .

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“Most of it is ostensibly utterly trivial, but the sum is not trivial at all. The sum of such casual, public contact at the local level. . . most of it fortuitous, most of it associated with errands . . . is a feeling for the public identity of people, a web of public respect and trust, and a resource in time of personal or neighborhood need. The absence of this trust is a disaster to a city street.” ¹

What Jacobs describes here could be an urban neighborhood or a small town. Its defining feature—and indeed the very foundation of this close-knit community—is a vibrant local retail economy. It is a place of small stores and sidewalks; a place where public and private space overlaps; and a place where we buy goods and services from businesses owned by our neighbors.

Such places are increasingly rare. Small-scale, pedestrian streets are giving way to massive, impersonal shopping centers. Street life has suffered, as our daily errands revolve increasingly around stores accessible only by car. Locally owned businesses are disappearing, displaced by national chains that have limited ties and no long-term commitment to the community.

The loss of locally owned stores and the pace of retail consolidation is staggering. 11,000 independent pharmacies have closed since 1990. Independent bookstores have fallen from 58 percent of book sales in 1972 to just 17 percent today. Local hardware dealers are on the decline, while two companies have captured 30 percent of the market. Blockbuster rents one out of three videos nationwide. Five firms control one-third of the grocery market, up from 19 percent just five years ago. A single firm, Wal-Mart, now accounts for 7 percent of all consumer spending. ²

If the current trends continue, independent retailers might soon be a thing of the past. But, in the midst of this unprecedented expansion by national retail corporations, another trend is underway: a growing number of communities are rejecting chain stores.

Last summer, residents of Ashland, Virginia mounted a spirited campaign to block a proposed Wal-Mart. In October, the Planning Commission voted unanimously to reject the store. In Chelsea, Michigan, residents organized a picnic to protest plans for a Rite Aid drugstore. The event drew a crowd of 1100 people. Rite Aid quickly backed down. Similar events are occurring across the country.

Indeed, over the past two years, dozens, or perhaps hundreds, of neighborhood groups have sprung up to protect their homegrown businesses. In Lake Placid, New York, a group known as the Residents for Responsible Growth is working with neighboring towns to form a regional response to chain store expansion. In Flagstaff, Arizona, it was the arrival of a Barnes & Noble and a Home Depot that prompted residents to form the Friends of Flagstaff’s Future. In Northfield, Minnesota, the Citizens for Responsible Development is working to defend the town’s historic Main Street and local shops.

CONSUMERS

The debate over chain stores is often characterized as a struggle between our hearts and wallets. We may mourn the loss of the corner drugstore, a fixture in the neighborhood for three generations, or the local independent bookstore, but ultimately we believe that, as consumers, we are better off. We tend to take as self-evident the chain stores’ claims that they bring us lower prices and wider selection.

Over the long-term, however, consumers are best served when there are numerous competitors in the market. The big retail corporations, like Home Depot, Toys R Us, and Best Buy, are known in the industry as “category killers.” The name is significant. These businesses do not intend to compete with local stores; they aim to be the only game in town.

Typically, a chain store will enter a new market sporting deep discounts. Many chains employ loss leaders to attract customers. Wal-Mart has been known to sell gallons of milk for 25 cents or to price entire departments below its own acquisition costs. This sets up a battle that local merchants cannot win. If they

RETAIL

Bucking the Chain Store Trend

don't match the chain's prices, they risk losing customers. If they do match the chain's prices, they will lose money on every sale. While a chain can afford to operate a new outlet at a loss indefinitely, it's only a matter of time before the local business will be forced to close.

Once the chain has eliminated the local competition, prices tend to rise. In Virginia, a survey of several Wal-Mart stores statewide found prices varied by as much as 25 percent. The researchers concluded that prices rose in markets where the retailer faced little competition. A similar conclusion was reached in a survey of Home Depot. Prices were as much as 10 percent higher in Atlanta compared to the more competitive market in Greensboro, North Carolina. ³

As for wider selection, consumers should be especially wary of the claims made by chain stores. Independent merchants are usually the first to sell products made by small companies. By contrast, most national chains refuse to do business with small and mid-sized companies. They prefer to deal only with large manufacturers. The result is that small manufacturers—even those that make innovative products, publish great books, or distribute ground-breaking films—are having an increasingly difficult time reaching consumers. ⁴

Consider the impact of this on book publishing. Borders Books and Barnes & Noble certainly stock a large number of titles under one roof, but these are virtually the same titles found in each of their 2,000 stores. Although local bookstores tend to be smaller, collectively they stock — and promote — far more titles than either of the chains. They take risks on unknown authors and small publishers. A number of best-selling writers, including Barbara Kingsolver and Amy Tan, contend that, without independent booksellers, their first books would have gone quietly out of print.

LOCAL ECONOMIES

Even if chain stores do save us a few dollars now and again, it comes at a great cost. Chain stores contribute far less to the local economy than independent businesses.

Developers often present new chain store developments as major additions to the local economy. They note the growth in retail sales and shopping options. They tally up the number of new jobs and the added tax revenue that the development will bring.

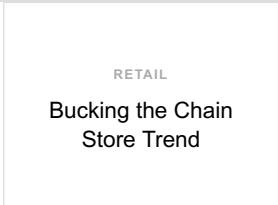
What is often overlooked is the other side of the balance sheet. Unlike new manufacturing facilities, which do create real economic growth, new retail stores simply shift consumer spending from one area of town to another. A new big box store can only be successful at the expense of existing businesses.

A study in Iowa, for example, found that new Wal-Mart stores derive on average of 84 percent of their sales from existing businesses within the community. ⁵ Similar conclusions have been reached in studies of big box development in Massachusetts, Maine, Vermont, New York, California, and Virginia.

What all of the studies find is that very little of the sales generated by a new retail store represent new retail spending. Instead these developments simply shift economic activity from one part of town to another. The end result is not economic development, but rather economic displacement.

One study in Greenfield, Massachusetts concluded that a proposed Wal-Mart store would cost existing businesses \$35 million in sales. The 177 jobs expected to be gained by the Wal-Mart would be offset by the loss of 148 jobs at other businesses. ⁶ A similar study in Saint Albans, Vermont found that a new Wal-Mart would derive 76 percent of its sales from local businesses. Many of these stores would be forced to close, leading to a significant net decline in total retail employment and property tax revenue. ⁷

Trading locally owned businesses for chain stores also entails the loss of significant secondary economic benefits.



Local stores keep profits circulating within the local economy. They also support a variety of other local businesses. They create opportunities for service providers, like accountants and printers. They do business with the community bank. They advertise through independent radio stations and other local media outlets. They purchase goods from local or regional distributors. In this way, a dollar spent at a locally owned businesses sends a ripple of economic benefits through the community.

By contrast, chain stores typically centralize these functions at their head offices. They keep local investment and spending to a minimum. They bank with big national banks. They bypass local radio stations in favor of national advertising. In this way, much of a dollar spent at a chain store leaves the community immediately.

Small, independent stores also create economic diversity and stability. Because they are locally owned, these stores are firmly rooted in the community. They are unlikely to move and will do their best to weather economic hard times.

Chain stores, by contrast, tend to be fair-weather friends. They are highly mobile and will abandon a location if profit margins do not meet their expectations. The worst case scenario is when a big box store builds on the edge of town, destroys the central business district, and, then a few years later, decides that it too will close its doors. The town is left with a dead Main Street and nothing to show for it. Nationwide, there are more than 300 empty Wal-Marts.⁸ It's very difficult to find a tenant for these single-purpose buildings and they often remain vacant for many years.

A community that loses its local businesses to national chains also risks losing other economic development opportunities. New technologies have enabled many companies to operate virtually anywhere. When these companies consider location options, towns with a vibrant commercial core and a unique character are often at the top of the list.

COMMUNITY

From an economic perspective, there is much to suggest that chain stores may not be our best value. But perhaps more significant than any of the economic considerations are the qualitative benefits of local ownership. Locally owned businesses build strong communities. They provide a foundation for the web of connections and trust that Jane Jacobs believed so essential to a healthy neighborhood.

There are several reasons for this. The first is that independent stores tend to be located in humanly-scaled, pedestrian-oriented shopping districts, as opposed to the sprawling, isolated experience of a chain store parking lot.

The second reason is that local stores create a sense of place and community identity. They reflect the local culture. They give neighborhoods their distinct flavor. They are often a source of community pride and an attraction to visitors.

Chain stores, by contrast, are sapping communities of their character and individuality. Even the most famous American cities are losing their unique appeal. Kmart, Costco, and Home Depot are building in Manhattan. Fifth Avenue is home to Starbucks and The Gap. These same stores can be found on Michigan Avenue in Chicago, Market Street in San Francisco, and thousands of other locations worldwide.

The arrival of chain stores may also entail the destruction of important local landmarks. An 1876 Friends Meeting house in Richmond, Indiana, for example, was demolished for a CVS drugstore. In Nashville, the Jacksonian Apartments, eligible for the National Register of Historic Places, were torn down for a Walgreen drugstore.⁹

The third way that independent businesses strengthen community is through their contributions to civic and cultural life. Local merchants are more than providers of goods and services. They often take a

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organize local festivals. According to the U.S. Small Business Administration, small businesses give more time and money to charitable organizations than do their large competitors.¹⁰

Because they live in the places where they do business, local merchants tend to be far more committed to the community's well-being and long-term stability than distant corporations. This commitment manifests itself in a variety of ways. In St. Paul, Minnesota, for example, the local food cooperative recently opened a new store in a low income neighborhood on a lot that had been vacant for years. As with many construction projects, the coop ran into higher than expected costs. Several independent merchants, including the local bookseller, stepped in and provided a sizable and much-needed loan. Meanwhile, Barnes & Noble and Borders Books, both of which operate stores in the city, were nowhere to be found.

Finally, the shift from local to absentee-owned stores means that business decisions are no longer made locally by members of the community. Who decides whether to close a store in a distressed neighborhood, stock a controversial book, sell produce from local farms, pay a living wage, or contribute to a local charity? In the case of chain stores, these decisions occur in distant boardrooms, where the values of the local community carry little or no weight.

This loss of local decision-making and the growing power of a small number of large corporations has implications for democracy. In 1952, Senator Hubert Humphrey asked, "Do we want an America where the economic market place is filled with a few Frankensteins and giants? Or do we want an America where there are thousands upon thousands of small entrepreneurs, independent businessmen, and landholders who can stand on their own feet and talk back to their Government or to anyone else?"¹¹

NEW RULES

There are tremendous benefits to choosing the latter path. Our ability to do so will depend not only on the decisions we make as consumers, but on the decisions we make as citizens. The actions of policymakers, and, in particular, planners, are critical to reviving the homegrown economy and ensuring that local businesses continue to be a vital part of our communities.

Many contend that public policy should have no role in shaping the retail economy. This is, after all, a free market.

But public policy is never neutral, and has, in fact, played a major role in the expansion of national chain stores. In many ways, public policy has undermined local retailers by giving large retail corporations unfair advantages.

Examples can be found at all levels of government. Congress, for instance, has exempted retailers like Amazon.com and Barnes & Noble from collecting sales tax on internet sales. This effectively gives these companies a 6 to 8 percent price advantage over local stores.

At the city and state level, tax incentives and other kinds of subsidies are routinely made available to chain stores. In Wisconsin, nearly \$20 million was provided a few years ago for a distribution center for Target stores. The city of Rochester, Minnesota spent \$3 million attracting a Barnes & Noble. Long Beach, California waived \$6 million in taxes for a development that included Kmart. In Florida, Walgreens has requested \$4.5 million in state and county tax breaks for the construction of a new warehouse.¹²

Similar examples can be found all over the country. Even if your hometown does not provide such subsidies, the chains that expand there are able to do so in part because of public funding they've received elsewhere. Rarely are tax breaks and subsidies given to locally owned businesses. Instead, they often see their tax dollars used to subsidize a competitor.

In other cases, city governments have evicted local businesses to make room for chain store developments. A proposal currently under consideration in Pittsburgh would level 60 buildings and

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three dozen chain stores. The beneficiaries of this plan include The Gap, Borders Books, and FAO Schwartz.¹³

Under these circumstances, even the most competitive, efficient, and popular independent businesses are struggling to stay afloat.

What these examples make clear is that the loss of independent businesses is not inevitable. Rather than undermining the local economy, many communities are taking a different approach. They have made sustaining humanly scaled, unique homegrown businesses a primary focus of planning and economic development decisions.

They are adopting a variety of land use rules that deter chain stores and foster local ownership. Many have restricted the physical size of new stores. Others allow new retail development only if it meets specific criteria defined by the community. Some have banned uniformity, by prohibiting “formula” businesses. Others have barred new retail development outside of the town’s central business district. (Examples of these policies, including the full text of the local ordinance, can be found on the New Rules web site, created by the Institute for Local Self-Reliance, at <http://www.ilsr.org>.)

By designing policies that put community first, local businesses can once again become a key component in a dynamic retail economy and a vibrant community.

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NOTES

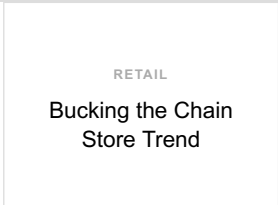
1. Jane Jacobs, *The Death and Life of Great American Cities*, New York: Random House, 1961.
2. National Community Pharmacists Association; American Booksellers Association; Ace Hardware Corporation; Video Software Dealers Association; “Five Hundred Largest U.S. Corporations,” *Fortune*, April 2000.
3. Elizabeth Humstone and Thomas Muller, “Impact of Wal-Mart on Northwestern Vermont,” prepared for the Preservation Trust of Vermont, the Vermont Natural Resources Council, and Williston Citizens for Responsible Growth, 1995; Chris Rouch, “Home Depot using predatory pricing tactics, critics say,” *Atlanta Journal & Constitution*, March 18, 1995, p. 1B.
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5. Thomas Muller and Elizabeth Humstone, “What Happened When Wal-Mart Came to Town? A Report on Three Iowa Communities with a Statistical Analysis of Seven Iowa Counties,” Washington: National Trust for Historic Preservation, 1996.
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8. “The Portable Wal-Mart,” *Sprawl-Busters Alert*, April 1999.
9. *Better Models for Chain Stores*, Washington: National Trust for Historic Preservation, 2000; Suzi Parker, “On Main Street America, it’s charm versus chains,” *The Christian Science Monitor*, July 19, 1999.
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13. Tom Barnes, "Eminent Domain Debate Heats Up," *Pittsburgh Post-Gazette*, March 2, 2000, p. B1.



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Stacy Mitchell is a researcher for the Institute for Local Self-Reliance (ILSR), a national nonprofit organization advancing community-oriented economic development through research and educational activities.



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Stacy Mitchell

Stacy Mitchell is co-director of the Institute for Local Self-Reliance and directs its Independent Business Initiative, which produces research and designs policy to counter concentrated corporate power and strengthen local economies.

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[...] Before you get started on a rant...yes, of course I'm glad chain stores employ local residents. No, I would not want any of them to lose their jobs. Yes, I do realize that there are a few local chains where a corporate-employed manager has the authority to, and does ,support our local community through non-profit assistance. However, time and again, research has shown the net effect of a global or national chain





Why Care about Independent, Locally Owned Businesses?

BY MARIE DONAHUE | DATE: 23 JUL 2018 |



Locally owned businesses play a central role in healthy communities and are among the best engines that cities and towns have for advancing economic opportunity and building resilient places. Small business ownership has been a pathway to the middle class for generations of Americans and continues to be a crucial tool for expanding prosperity and community self-determination. Here, we outline five important reasons for local officials to support independent businesses, based on a growing body of research.

1 | Local small businesses are linked to higher incomes and less inequality.

Enacting policies that strengthen small businesses and expand opportunities for local entrepreneurs is one of the most effective ways of reducing inequality and expanding the middle class.

In 2013, for example, an economist at the Federal Reserve Bank of Atlanta found that counties with larger shares of local small businesses outperform their peers on three critical economic indicators: they have stronger per capita income growth, faster employment growth, and lower poverty rates.^[1] Using two decades of data from a number of countries, another study found that areas with more small and mid-size businesses had lower levels of income inequality.^[2]

2 | Entrepreneurship fuels job creation.

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Across the country, the rate of new business formation has fallen sharply over the last 20 years, contributing to sluggish job growth and wage stagnation. “New businesses account for nearly all net new job creation,” concludes a Kauffman Foundation research brief.^[3]

Cities that achieve higher rates of entrepreneurship and new business creation than the national average are better off. They generate more jobs, which in turn lifts wages. While cities may be tempted to focus only on tech startups, expanding opportunities for residents to launch businesses that meet community needs in retail, services, food production, and other sectors can have even greater impact.

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3 | Independent businesses generate more tax revenue at lower public cost.

Locally owned businesses in dense, mixed-use commercial districts generate more tax revenue for cities than sprawling shopping centers, while also costing less in public services. An analysis from the Government Finance Review, drawing on data from a sample of 30 cities in 10 states, found that a community earns about \$7 in property taxes per acre on the average big-box retail store, compared to \$287 per acre on a mixed-use, mid-rise business district.^[4] The compact nature of these districts also means they make more efficient use of public infrastructure and services.

4 | Local businesses foster community cohesion and well-being.

The social fabric of a community is tightly coupled with the health of its independent businesses. Research has shown that communities with a larger share of local businesses have more social capital, stronger social ties, higher levels of civic engagement, and better success solving problems.

A 2011 study from the Cambridge Journal of Regions, Economy, and Society, for example, found that areas with a greater concentration of small businesses, all else being equal, have improved public health outcomes than those with fewer small businesses.^[5] The authors speculate that local ownership of business enhances a community's capacity to solve problems. Other research has found the presence of independent retailers helps communities retain their residents, especially those with college degrees.^[6]

Taken together, these studies show that cultivating a vibrant independent business sector not only strengthens the economy; doing so can advance social goals as well.

5 | Community-scaled businesses reduce pollution and improve environmental sustainability.

Independent businesses help to sustain compact downtown and neighborhood commercial districts, which curb sprawl and automobile use, and enable residents to fulfill more of their daily needs close to home.

Several studies have found that people who live near small stores walk more for errands and, when they do drive, their trips are shorter. That's not all: small retailers also influence how likely people are to take public transit. A study of 3,200 households in King County, Wash. (the Seattle area), for example, found that residents of neighborhoods with the most local businesses logged 26 percent fewer automobile miles than people living in areas with few neighborhood stores, and they were significantly more likely to take public transit to work.^[7]

By supporting local retailers, local officials can create a healthier, more sustainable community.

This list is part of our **Local Policy Action Toolkit** for independent businesses and is available to download and share as a **two-page PDF**.

Why Care about Independent, Locally Owned Businesses?

Locally owned businesses play a central role in healthy communities, and are among the best engines that cities and towns have for advancing economic opportunity and building resilient places. Small business ownership has been a pathway to the middle class for generations of Americans and continues to be a crucial tool for expanding prosperity and community self-determination. Here, we outline five important reasons for local officials to support independent businesses, based on a growing body of research.

- 1. Local small businesses contribute to higher incomes and less inequality.** Cities that achieve higher rates of entrepreneurship and new business creation than the national average are better off. They generate more jobs, which in turn lifts wages. While one may be tempted to focus only on high salaries, expanding opportunities for residents to launch businesses that meet community needs in retail services, food production, and other sectors can have greater impact.
- 2. Independent businesses generate more tax revenue at lower public costs.** Locally owned businesses in dense, mixed-use commercial districts generate more tax revenue for cities than sprawling shopping centers, while also cutting taxes in public services.
- 3. Community scaled businesses reduce pollution and improve environmental sustainability.** Independent businesses help to sustain compact downtown and neighborhood commercial districts, which look great and sustainable, and enable residents to fulfill more of their daily needs close to home.
- 4. Local businesses foster community cohesion and well-being.** The social fabric of a community is tightly coupled with the health of its independent businesses. Research has shown that communities with a larger share of local businesses have more social capital, stronger social ties, higher levels of civic engagement, and better success solving problems.

1. Local Policy Matters: How to Grow Independent Businesses in Your City is a guide for local officials. The complete guide is available online: www.inrl.org/local-business-city-policy-guide

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Click to download a two-page PDF version of this "Why Care" resource.

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Find more details about the studies mentioned here, and others, by going to the Institute for Local Self-Reliance's resource page — **Key Studies: Why Local Matters**. Additional resources about the importance of independent businesses to the local economy can be found on our **Why Local** page.

Notes

- [1] "Locally Owned: Do Local Business Ownership and Size Matter for Local Economic Well-being?" Anil Rupasingha, Federal Reserve Bank of Atlanta. 2013.
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- [5] "The Health and Wealth of US Counties: How the Small Business Environment Impacts Alternative Measures of Development," Troy C. Blanchard, et al., *Cambridge Journal of Regions, Economy, and Society*, 2011.
- [6] "Socially Responsible Processes of Small Family Business Owners: Exploratory Evidence from the National Family Business Survey," Margaret A. Fitzgerald, et al., *Journal of Small Business Management*, 2010.
- [7] "A Study of Land Use, Transportation, Air Quality, and Health in King County, WA," Lawrence Frank and Company, The Neighborhood Quality of Life Study, Center for Clean Air Policy, GeoStats, & McCann Consulting, 2005; "Neighborhood stores: An overlooked strategy for fighting global warming" Stacy Mitchell, Grist, 2009.

At the Independent Business initiative at the Institute for Local Self-Reliance, we research and advocate for policies that strengthen independent businesses and reduce the power of dominant corporations. **Check out more of our work**, and sign up for our **monthly newsletter** so that you don't miss our latest research.

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Marie Donahue was a Research Associate with the Institute for Local Self-Reliance's Energy Democracy and Independent Business Initiatives in 2018-2019. She analyzed and wrote about the implications of corporate concentration and monopoly in these sectors.

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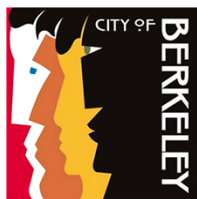
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CITY COUNCILMEMBER
RIGEL ROBINSON
 DISTRICT 7

ACTION CALENDAR
 October 29, 2019

To: Honorable Mayor and Members of the City Council
 From: Councilmember Rigel Robinson
 Subject: Referral: Measures to Address Traffic Enforcement and Bicycle Safety

RECOMMENDATION

1. Refer to the Transportation Commission to consider a Resolution deprioritizing enforcement of the Idaho Stop and Dead Red conventions for persons operating a bicycle, after the operator has yielded to any other road users with the right of way, by prohibiting the use of any City funds or resources in assisting in the enforcement or issuance of citations for bicyclist violations of California Vehicle Code Sections 22450(a) and 21453(a).
2. Refer to the City Manager to develop a ticket diversion program to educate bicyclists as an alternative to monetary fines related to other infractions, and to ensure integration of Vision Zero principles in implementation of state Office of Traffic Safety grants.
3. Refer to the City Manager to develop a plan to calm and divert motor vehicle traffic on bicycle boulevards to provide people who bicycle and walk a safe, comfortable and convenient mobility experience by adding or reconfiguring stop signage and other traffic calming measures, per the recommendations of the 2017 Bicycle Plan.

SUMMARY

The proposed Resolution seeks to improve safety and incentivize bicycling by creating common-sense traffic enforcement priorities that align with our stated Vision Zero goals. This item further asks staff to create a ticket diversion program for bicyclists and explore adding and reconfiguring traffic calming measures and stop signage to maximize the efficiency of travel on bicycle boulevards.

BACKGROUND

Currently, VEH Section 21200 requires bicyclists and other pedal-operated vehicle riders to abide by the same laws as motorists. Under VEH Section 22450(a), "the driver of any vehicle approaching a stop sign at the entrance to, or within, an intersection shall stop at a limit line, if marked, otherwise before entering the crosswalk on the near side of the intersection. If there is no limit line or crosswalk, the driver shall stop at the entrance to the intersecting roadway." Under VEH Section 21453(a), "a driver facing a steady circular red signal alone shall stop [...] before entering the intersection, and shall remain stopped until an indication to proceed is shown," unless turning right. If ticketed for violating either section, bicyclists receive the same monetary fine as a motorist:

around \$200 for rolling through a stop sign, and around \$400 for proceeding through a red light.

As of September 2015, new amendments to VEH Section 42005(3) created the option for cities and local law enforcement departments to implement a ticket diversion program for bicyclists, offering an educational alternative to heavy fines.¹ Although the UC Berkeley Police Department waives on-campus infraction fines in exchange for proof of Bicycle Education & Safety Training class attendance, the City at large does not offer any such option to reduce or waive fees.²

This results in ticketing practices like those demonstrated on August 13th, August 21st, and September 6th of this year, when Berkeley residents observed BPD officers issue a series of \$200 citations to bicyclists for rolling through stop signs. According to traffic enforcement division data, 55 total stops of this nature have occurred since July 2019, with 36 resulting in fines.³ The City should consider developing a ticket diversion program to replace overly punitive fines with bicyclist education.

For bicyclists, confusion may arise from the inconsistent legal status of this common energy-conserving maneuver, known as the 'California roll' or 'Idaho Stop' at a stop sign. When approaching an empty intersection with traffic light signals, the 'Dead Red' convention allows cyclists to proceed after stopping and waiting to verify that the intersecting road is clear, in order to compensate for the under-detection of bikes by traffic signal sensors.

Application of traffic stop laws to bicyclists and human-powered vehicle operators is not uniform between states, nor enforced consistently across California cities. In 1982, the state of Idaho passed a law allowing bicyclists to treat stop signs as yield signs, and red lights as stop signs.⁴ In the following decades, similar Idaho Stop and Dead Red laws have been adopted by other states, including Delaware's 2017 passage of an amendment to "permit safe yielding by bicycle operators at stop sign-controlled intersections with minor roads."⁵ This year, Oregon enacted new legislation permitting bicyclists "to enter [an] intersection controlled by specified traffic control devices without stopping," effective January 1, 2020.⁶ Currently undergoing debate in Utah, House Bill 161 proposes the same revisions to the state traffic code.⁷

Internationally, Paris recently adopted Idaho Stop and Dead Red policies at right turns and T-junctions, in conjunction with a larger initiative to incentivize bicycling.⁸ Prior to

¹ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB902

² <https://ucpd.berkeley.edu/laws-and-policies/vehicles-and-bicycles-campus>

³ <https://www.sfchronicle.com/bayarea/article/Berkeley-cyclists-cry-foul-over-238-citations-14432685.php?psid=mC2Zz>

⁴ <https://legislature.idaho.gov/statutesrules/idstat/title49/t49ch7/sect49-720/>

⁵ <https://ohs.delaware.gov/bicycle.shtml>

⁶ <https://olis.leg.state.or.us/liz/2019R1/Measures/Overview/SB998>

⁷ <https://le.utah.gov/~2019/bills/static/HB0161.html>

⁸ <https://www.bbc.com/news/magazine-33773868>

adoption, France tested rolling stops in Bordeaux and other small cities, and was encouraged by the resulting decrease in collisions between bicycles and cars.

Achieving a similar outcome in the City of Berkeley would differ in implementation because the City does not have jurisdiction over state vehicle code. Instead of codifying a traffic law exemption, the City would deprioritize enforcement of the Idaho Stop and Dead Red conventions by prohibiting the use of City funds or resources in issuing citations or otherwise conducting enforcement. Because this proposal does not entail a change to vehicle code, it would not affect any legal ramifications, as found in a court of law, of a bicyclist-at-fault collision caused by violation of California Vehicle Code Sections 22450(a) or 21453(a).

A 2010 UC Berkeley School of Public Health Environmental Science Division study, which compared injury and fatality rates in Idaho with data from structurally similar cities in states still lacking a traffic stop exemption, found that these conventions make our streets safer.⁹ Quantitative results demonstrated Idaho conditions to be 30.4 percent safer for bicyclists overall, with an immediate 14.5 percent decrease in injuries in the year following the law's implementation. In researcher interviews with police officers, public officials, bicycle advocacy groups, and the general public, "these inquiries strongly supported adoption of the Idaho Law, and no entity whatsoever identified any negative safety result associated with passage of the law."

Currently, Office of Traffic Safety (OTS) statistics consistently rank the City of Berkeley number one in bicycle-related injury collisions, when compared to fifty-seven other cities of similar population density.¹⁰ Adoption of the Idaho Stop and Dead Red conventions should be explored as one possible mitigation strategy.

In addition to evidentiary merit as a bicyclist safety initiative, this proposal would also improve the quality and convenience of bike travel. Highlighting the disparate impact of mandatory stop signs on bicyclists, a 2001 UC Berkeley Physics Department study determined that on routes with frequent stops, a person operating a bike must exert five times the energy in order to maintain speed.¹¹ In absence of oncoming traffic, permitting bicyclists to conduct a rolling stop conserves energy without increasing collision risk. It also allows bicyclists to more quickly clear the intersection, where they are most vulnerable to being hit by a driver. Equipped with twice the visual field of an average SUV, bicycle riders are uniquely qualified to determine if a complete stop is required for safety.¹²

Another action the City should take to improve bicycling safety is to calm and divert motor vehicle traffic on bicycle boulevards, as outlined in the Chapter 5.2.3 of the

⁹ <http://denver.streetsblog.org/wp-content/uploads/sites/14/2018/02/idaho-law-jasonmeggs-2010version-2.pdf>

¹⁰ <https://www.ots.ca.gov/ots-and-traffic-safety/>

¹¹ <https://nacto.org/wp-content/uploads/2012/06/Fajans-J.-and-M.-Curry.-2001..pdf>

¹² <http://denver.streetsblog.org/wp-content/uploads/sites/14/2018/02/idaho-law-jasonmeggs-2010version-2.pdf>

Bicycle Plan.¹³ Infrastructure such as traffic circles, diverters, bulbouts, and speed humps can improve mobility experience by establishing bicycle priority and reducing the speed and volume of automobile traffic. Along bicycle boulevards at intersections where stop signs do not achieve their stated purpose of managing conflicting traffic flows, the City should consider reconfiguring signage or replacing stop signs with more effective traffic calming measures.

These proposals are consistent with the goals and policies laid out by Vision Zero¹⁴ and the Bicycle Plan,¹⁵ which champion “a model bicycle-friendly city where bicycling is a safe, comfortable, and convenient form of transportation and recreation for people of all ages and abilities.”

FINANCIAL IMPLICATIONS

Adoption of the Resolution may slightly reduce ongoing City expenditures associated with the enforcement of civil penalties relating to traffic stop law violation by bicyclists. Staff time will be necessary to explore options for a bicycle ticket diversion program and consider signage changes.

ENVIRONMENTAL SUSTAINABILITY

Improved efficiency and ease of navigation will increase the mode share of bicycles and other human-powered vehicles, which aligns with the City’s Climate Action Plan and contributes to long-term sustainability.

CONTACT PERSON

Councilmember Robinson, District 7, 510-981-7170
Mars Svec-Burdick, Intern, msvec-burdick@cityofberkeley.info

Attachments:

1: Resolution

¹³ https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley-Bicycle-Plan-2017_Ch5_ProposedBikewayNetwork.pdf

¹⁴ https://www.cityofberkeley.info/Clerk/City_Council/2017/12_Dec/Documents/2017-12-07_WS_Item_02_Vision_Zero_Traffic_Safety_Policy_-_Pres.aspx

¹⁵ https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley-Bicycle-Plan-2017_Ch2_GoalsPoliciespdf.pdf

RESOLUTION NO. ##,###-N.S.

RESOLUTION SUPPORTING SAFE AND EFFICIENT BICYCLING PRACTICES AND DECLARING THAT THE CIVIL CITATION OF INDIVIDUALS OPERATING A BICYCLE IN A MANNER WHICH VIOLATES CALIFORNIA VEHICLE CODE SECTIONS 22450(A) OR 21453(A) SHALL BE AMONGST THE LOWEST PRIORITY FOR THE CITY OF BERKELEY

WHEREAS, California law requires bicyclists to abide by the same laws as motorists when approaching an intersection, even in the absence of oncoming traffic, despite the disparate impact of mandatory stops on the operator's safety and efficiency of travel; and

WHEREAS, at empty intersections, frequent stops create an undue burden on bicyclists by multiplying the amount of energy the operator must exert order to maintain speed over the course of a journey; and

WHEREAS, it is the stated goal of the 2017 Berkeley Bicycle Plan to become a model bicycle-friendly city where bicycling is a safe, comfortable, and convenient form of transportation; and

WHEREAS, the city's Vision Zero policy prioritizes enforcement of violations that cause the most severe and fatal injuries; and

WHEREAS, from 2006-2018, motorist-at-fault violations were the top four causes of severe and fatal collisions in Berkeley, accounting for 46% of all severe and fatal collisions; and

WHEREAS, bicyclists not stopping at stop signs comparatively cause very few severe and fatal collisions, comprising of only four collisions in 13 years; and

WHEREAS, incentivizing transportation by bicycle and other human-operated vehicles mitigates greenhouse gas emissions, and is aligned with the City's Climate Action Plan; and

WHEREAS, the City of Berkeley wishes to declare its desire not to expend City resources in any citation arising out of alleged violation of state traffic stop laws by a person operating a bicycle in an otherwise safe manner.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that it shall be the policy of the City that no department, agency, board, commission, officer or employee of the city, including without limitation, Berkeley Police Department personnel, shall use any city funds or resources to assist in the enforcement of laws imposing civil penalties for the violation of California Vehicle Code Sections 22450(a) 21453(a) by a person operating a bicycle and approaching an empty intersection. When approaching a stop sign, the operator of a bicycle shall slow to a reasonable speed and yield the right-

of-way to any vehicle or pedestrian in the intersection, or approaching on another highway so closely as to constitute an immediate hazard, before cautiously making a turn or proceeding through the intersection without stopping. When approaching a red light signal, the operator of a bicycle shall stop and yield the right-of-way to any vehicle or pedestrian in the intersection, or approaching on another highway so closely as to constitute an immediate hazard, before cautiously making a turn or proceeding through the intersection without waiting for a green light signal. For the purposes of this resolution, the definition of 'cyclist' shall include a person operating a bicycle or other human-powered vehicle, including e-bikes.

BE IT FURTHER RESOLVED that this resolution does not authorize bicyclists to proceed through stop signs without stopping, or proceed against a red light signal, unless the intersecting roadway is empty of oncoming vehicles and pedestrians.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley urges bicyclists to take utmost safety precautions when proceeding through a stop sign or against a red light.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley hereby declares that it shall be the policy of the City of Berkeley that the citation of bicyclists for violating California Vehicle Code Sections 22450(a) 21453(a) shall be amongst the lowest law enforcement priority for the City of Berkeley.

BE IT FURTHER RESOLVED that if any provision of this resolution is declared by a court of competent jurisdiction to be contrary to any statute, regulation or judicial decision, or its applicability to any agency, person, or circumstances is held invalid, the validity of the remainder of this resolution and its applicability to any other agency, person, or circumstance shall not be affected.

BE IT FURTHER RESOLVED that a copy of this resolution shall be sent to Alameda County Supervisor Keith Carson, Assemblymember Buffy Wicks, State Senator Nancy Skinner, Congresswoman Barbara Lee, Senator Dianne Feinstein, and Senator Kamala Harris, and that the Council of the City of Berkeley formally requests that they take action in their respective legislative bodies to sanction common-sense traffic stop exemptions for bicyclists.



Office of the City Manager

INFORMATION CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Mark Numainville, City Clerk

Subject: City Council Short Term Referral Process – Monthly Update

INTRODUCTION

This report is a monthly update on the status of short term (90-day) and other date-certain Council referrals.

CURRENT SITUATION AND ITS EFFECTS

In this context, tracking refers to a manually updated chart (Attachment 1). The May 15, 2018 Council referral establishing the monthly update includes both “short term” and “date-certain” referrals. Short term referrals are referrals that staff determines they will be able to complete in approximately three months. Date-certain referrals are those which contain a specified date of completion at the time they are approved by the City Council. Currently, the City only tracks short term referrals in an Excel spreadsheet.

Providing a monthly update on all short term and date-certain referrals will allow Council and the public to see the status of these referrals and any circumstances which lead to delays.

BACKGROUND

In 2016, the City Council adopted a system of Re-Weighted Range Voting (RRV) to prioritize the outstanding City Council referrals to staff. The RRV system enables City Council to provide direction to staff on which referrals are highest priority to the City Council. However, that process does not provide information on the status of short term or date-certain referrals. While many short term or date-certain referrals were “updated” through being completed and presented to Council as consent or information items, there was no comprehensive overview of this subset of referrals.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

POSSIBLE FUTURE ACTION

The City Council may wish to direct staff to evaluate this process after it has been in place six months.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

No direct fiscal impact. Greater efficiencies in staff resources due to prioritization of work and alignment with budget and strategic plan goals.

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1: Short Term and Date-Certain Referrals

Short Term Referrals [FINAL]

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2019-09-10	35	1281 University Avenue Request for Proposals	Refer to the City Manager to issue a Request for Proposals (RFP) for residential development at the City-owned site at 1281 University Avenue with a requirement that 100% of the on-site units to be restricted to 80% AMI or below households with at least 10% at 50% AMI, with consideration given to accommodations that serve unhouseed or homeless households, including nontraditional living arrangements such as tiny homes and that Council consider interim use for the site for housing purposes.	Commission			Housing Advisory Commission	2019-09-16 17:00:00	Health, Housing and Community Services	Not Started	2019-09-16 17:00:00		
2019-09-10	48	Request for Information Regarding Current Status and Progress on Traffic Mitigations at Dwight Way and California Street	Refer to the City Manager a request for information regarding the current status and progress on traffic mitigations and pedestrian safety improvements at the intersection of Dwight Way and California Street.	Council member		Ben Bartlett		2019-09-16 17:00:00	Public Works	Not Started	2019-09-16 17:00:00		
2019-09-10	55	Game Day Parking - Minor Update to include RPP area K	Refer to the City Manager the modification of parking restrictions in specified RPP Zones on UC Berkeley home football game days as follows: establish "Enhanced Fine Areas" to prohibit parking without a valid RPP permit to include RPP Zone K; and install new RPP signs in zone K to clearly indicate UC Berkeley home football game day parking prohibitions.	Council member		Lori Droste, Jesse Arreguin		2019-09-16 17:00:00	Public Works	Not Started	2019-09-16 17:00:00		
2019-09-10	53	Voluntary Time Off on Statewide Election Days for City Employees	Refer to the City Manager to designate Statewide Election Days as VTO days, and refer to the 2x2 Committee to discuss coordinating City and District policy on holidays, in particular Election Day.	Council member		Rigel Robinson, Cheryl Davila, Sophie Hahn, Lori Droste		2019-09-16 17:00:00	Human Resources	Not Started	2019-09-16 17:00:00		
2019-09-10	30	Referral Response: Proposed New BMC Ordinance Adding Chapter 9.26 Live Animal Sales – Disclosure Requirements	In lieu of approving the ordinance, encourage Berkeley live animal retailers to provide purchasers with information regarding the sourcing of their animals by utilizing one or two of the following designations describing the sourcing of the particular animal: 'captive bred;' 'hobby breeder' or 'licensed breeder;' 'rescue;' 'wild caught;' or 'imported.'	Commission			Animal Care Commission	2019-12-16 17:00:00	CITY MANAGER'S OFFICE	Not Started	2019-12-16 17:00:00		
2019-03-26	15	Ensuring the Sustainability of the Berkeley Flea Market	Short-term referral to the City Manager to provide material and strategic assistance to the Berkeley Flea Market, to sustain and enhance its ability to serve both merchant participants and the community at large.	Council member		Ben Bartlett, Sophie Hahn, Cheryl Davila		2019-05-27 17:00:00	Office of Economic Development	Work in Progress	2019-07-30 11:38:31		<p>2019-09-24 11:03:09 - Melissa McDonough (sys_user.do?system:view=11&sys:query=user:trn=BMCDunrogh) Additional comment: Still waiting for the Flea Market's strategic plan, expected end of calendar year.</p> <p>2019-06-06 10:40:44 - Jordan Klein (sys_user.do?system:view=11&sys:query=user:trn=JKlehn) Additional comment: OED's small business retention consultant, Uptima Business Bootcam is working closely with the Flea Market on the development of a new strategic plan. Expected completion is July 2019. At that point, OED will submit an information report to City Council with an update and summary, with strategic plan attached. Expected for the 9/10/19 City Council regular meeting.</p>
2019-07-16	9	Referral to the City Manager to Consider Amending the Language of the City's Wireless Telecommunications Ordinance and Aesthetic Guidelines	Request that the City Manager consider amending the language of the City's Wireless Telecommunications Ordinance (BMC 23C.17) and Aesthetic Guidelines (BMC 16.10 & Aesthetic Guidelines for PROW permits) and return to City Council for adoption as soon as possible.	Councilmembers		Susan Wengraf, Jesse Arreguin, Ben Bartlett, Kate Harrison		2019-07-22 17:00:00	City Attorney	Work in Progress	2019-08-23 14:35:21		<p>2019-09-17 11:03:27 - Christopher Jensen (sys_user.do?system:view=11&sys:query=user:trn=CJensen) Additional comment: The City Manager's Office and City Attorney's Office are coordinating with other departments to update guidelines and procedures for wireless application submittals.</p>

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2019-07-16	14	Opportunity Zone Project Guidelines for the City Manager	Refer to the City Manager the priorities listed below for investment in Berkeley's Opportunity Zones for proactive outreach and marketing to investors or Opportunity Funds, and to guide any discussions or negotiations regarding development projects in Opportunity Zones. The priorities are: Construction of new Affordable Housing units or acquisition and preservation of affordable housing; Preservation of historic buildings; Cultural Institutions and Performing Arts Venues; Civic Uses (Government Offices, Libraries, Schools, Public Safety); Public Open Space and Recreation Facilities; Health Care Services; Transportation Demand Management features; and Job training or employment opportunities. The City Manager should further incorporate these guidelines into any relevant formal document relating to projects in Opportunity Zones. That City staff, working with non-profit organizations OR seeking technical assistance, develop a prospectus marketing community development projects in Berkeley's Opportunity Zones using the guidelines mentioned above, or any other tools to attract equitable investment in Opportunity Zones.	Councilmembers		Ben Bartlett, Kate Harrison, Jesse Arreguin, Cheryl Davila		2019-07-22 17:00:00	Office of Economic Development	Work in Progress	2019-09-25 11:01:10		2019-09-24 07:59:59 - Melissa McDonough (sys_user) do? system: view=full&system: query=user_name=MMcDonough Expect to send an info report/referral response to Council by Oct/Nov. Additional comm
2019-05-28	29	Referral to the Public Works Department and the City Manager: Finishing the installation of Sculpture Lighting into Adjacent Street Lights for the William Byron Rumford Statue on Sacramento and Julia St.	Refer to the City Manager a request to finish the installation of sculpture lighting into adjacent street lights for the William Byron Rumford statue on Sacramento and Julia Street. Refer to the Public Works Department for its installation.	Councilmembers		Ben Bartlett, Kate Harrison, Cheryl Davila, Jesse Arreguin		2019-06-13 17:00:00	Public Works	Work in Progress	2019-10-01 17:00:00		
2019-02-19	16	Providing Requested Direction to the City Manager and Planning Department on the Number of Cannabis Retail Establishments and the Creation of an Equity Program	That the Council provides requested direction to the Planning Department on how to proceed with the Equity Program recommended by the Cannabis Commission in the October 9, 2018 staff report; with the following specifications: Recommendation of creating 1 new dispensary license for equity applicants. It is envisioned as new licenses are created, such as, delivery, manufacturing, and micro-business, permits will be reserved for equity applicants for each new category.	Councilmembers		Ben Bartlett, Kriss Worthington, Cheryl Davila		2019-05-17 17:00:00	PLANNING & DEVELOPMENT	Work in Progress	2019-12-10 12:00:00		2019-04-12 16:03:50 - Melissa McDonough (sys_user) do? system: view=full&system: query=user_name=MMcDonough This will be included with the next set of Cannabis Ordinance changes, expected in summer 2019. Additional comm
2018-04-03	18	Supplemental Paid Family Leave	2) refer to the City Manager to draft an ordinance regarding retaliation against employees using state family leave, including a private right of action provision.	Commission				2018-09-28 17:00:00	City Attorney	Work in Progress	2019-12-17 11:26:48		2019-09-17 11:24:26 - Christopher Jensen (sys_user) do? system: view=full&system: query=user_name=CJensen City Attorney's Office to coordinate with Human Resources Additional comm
2019-04-02	18	Companion Report: Effective Enforcement of Safe Lead-Paint Practices - Update on Amendments	Based on the intent of the recommendation from the Community Environmental Advisory Commission (CEAC) for the City to expand enforcement of unsafe lead paint practices, refer to the City Manager to: - Coordinate with the Alameda County Healthy Homes Program to clearly identify roles and responsibilities for expanding enforcement of unsafe lead practices, and to explore options for sharing resources that can support expanded local enforcement; - Identify what resources, staff capacity, and program structure would be required to expand City enforcement of unsafe lead practices; - Continue current work to educate building permit applicants and contractors about safe lead paint practices; train and certify all City of Berkeley Building and Housing Inspectors in lead paint safety; respond to, investigate, and enforce safe lead paint practices as needed; and administer the Public Health Division's Childhood Lead Poisoning Prevention Program; and - Provide an update to City Council within one-year that identifies progress and next steps for expanding enforcement of unsafe lead practices. AMENDMENTS: Request that the City Manager return to Council as soon as possible with recommendations on staffing for robust enforcement and internal restructuring for inspections. Options for noticing and distributing disclosure information. Enforcement by the City or the County, if feasible.	Councilmembers				2019-06-28 17:00:00	CITY MANAGER'S OFFICE	Work in Progress	2020-04-28 15:28:36		2019-09-12 08:32:23 - Melissa McDonough (sys_user) do? system: view=full&system: query=user_name=MMcDonough Convened all City divisions which touch issue (Public Health, Environmental Health, Toxics, Building & Safety, 311). Mapped existing processes. Preparing draft consolidation plan. Additional comm
2018-02-27	23	Conceptual Study for Undergrounding Utility Wires in Berkeley From: Public Works Commission, Disaster and Fire Safety Commission, and Transportation Commission	That Council approve the following items: 1. Conceptual Study for undergrounding utility wires in Berkeley (the "Undergrounding Plan"). 2. Proceed with Phase 3 of the Undergrounding Plan. We want to emphasize the importance for Berkeley to actively participate in the current California Public Utilities Commission review of the Rule 20 program.	Commission			Public Works Commission	2018-05-25 17:00:00	Public Works	Work in Progress	2020-12-31 17:00:00		2019-04-12 15:51:40 - Melissa McDonough (sys_user) do? system: view=full&system: query=user_name=MMcDonough Due date: report back after Task 5 is completed Additional comm
													2019-02-05 15:56:07 - Melissa McDonough (sys_user) do? system: view=full&system: query=user_name=MMcDonough Phase 3 funding not approved, to be reconsidered by City Council November 2018. Additional comm

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2014-04-29	35	35. City Manager Referral: Policy for Companies Such as Airbnb to Pay Transient Occupancy Tax, as Currently Paid by Other Small Local Businesses	Refer to the City Manager creation of a policy for companies such as Airbnb to pay the Transient Occupancy Tax, as currently paid by other small local businesses.	Council member	City Council District 7	Kriss Worthington		2014-10-24 17:00:00	PLANNING & DEVELOPMENT	Completed	2014-10-27 08:00:00	2016-09-07 00:00:00	
2014-12-16	25	Reconcile the West Berkeley Plan and the Zoning Code as it Pertains to Medical Uses	Refer to the Planning Commission the task of revising the current zoning ordinance so that it reflects the West Berkeley Plan's goals of encouraging medical uses in West Berkeley.	Council member	City Council District 2			2015-06-12 17:00:00	PLANNING & DEVELOPMENT	Completed	2015-06-15 08:00:00	2017-01-24 00:00:00	
2015-09-15	43	Prohibit Sales of Tobacco Products to Persons Under the Age of 21	Direct the City Manager and Community Health Commission to draft an ordinance amending Berkeley Municipal Code Chapter 9.80 "Tobacco Retailers" to prohibit the sales of tobacco products and smoking paraphernalia to persons under the age of 21.	Council member		Jesse Arreguin		2016-03-11 17:00:00	HEALTH, HSG & COMMUNITY SVC	Completed	2016-03-11 17:00:00		
2015-09-15	55	Referral to the Community Environmental Advisory Commission to Install 1.8 GPM Showerheads in All New Housing Projects or Any Renovation Over \$50,000	Refer to the Community Environmental Advisory Commission to explore requiring a maximum of 1.8 GPM low flow showerheads in new housing projects and all housing renovations exceeding \$50,000 throughout Berkeley.	Council member		Kriss Worthington		2016-03-11 17:00:00	PLANNING & DEVELOPMENT	Completed	2016-03-14 08:00:00	2016-07-19 00:00:00	
2015-11-10	1	Proposed Amendments to the Minimum Wage Ordinance; Amending Berkeley Municipal Code Chapter 13.99 (Continued from September 15, 2015)	Review and consider information regarding the activities and costs associated with implementing and enforcing the Commission on Labor's proposed amendments to the Minimum Wage Ordinance (MWO), including the potential impact of the proposed amendments on the City's minimum wage employees, employers, non-profit organizations and community-based organizations, on-call workers and youth training program workers, and either: 1. Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 13.99, which includes staff-recommended revisions to the Commission's proposed Ordinance; -OR- 2. Refer the MWO back to the City Manager for further analysis and revisions.					2016-05-06 17:00:00	CITY MANAGER'S OFFICE	Completed	2016-05-09 08:00:00	2016-09-01 00:00:00	
2015-11-17	30	Fourth Ambulance Pilot Project 6-Month Update	No recommendation noted. Action: Moved to Consent Calendar and held over to January 19, 2016. Fire to report back in May 2016 for permanent program.					2016-05-13 17:00:00	FIRE & EMERGENCY SERVICES	Completed	2016-05-16 08:00:00	2018-07-01 00:00:00	
2015-12-01	22	City Manager Referral: Pilot Program to Implement Solar Trash Compactors on Telegraph Avenue and Downtown Berkeley	Refer to the City Manager to adopt a Pilot Program to implement Solar Trash Compactors on Telegraph Avenue and Downtown Berkeley.	Council member		Kriss Worthington, Linda Maio, Susan Wengraf, Lori Droste		2016-05-27 17:00:00	Public Works	Completed	2016-05-30 08:00:00	2018-07-24 00:00:00	2019-02-05 16:44:20 - Melissa McDonough (sys_user@o2system.com) [file=sys_admin_log] [name=MMcDonough] 6/2018 RFPs received; 2 solar compactors to be issued contracts.
2015-12-01	33	City Manager and Planning Commission's Referral: Enable Implementation of Council Approved Floor Area Ratio in the Telegraph Commercial District between Dwight and Bancroft by Amending the Zoning Ordinance	Refer to the City Manager and Planning Commission an immediate implementation strategy to bring the City Zoning Ordinance in compliance with the policy adopted by City Council to increase Floor Area Ratio (FAR) in the Telegraph Commercial District between Dwight and Bancroft - COUNCIL DIRECTION ON COMMUNITY BENEFITS NEEDS FOLLOW UP WORK AND REPORT TO COUNCIL	Council member	City Council District 7	Kriss Worthington		2016-05-27 17:00:00	PLANNING & DEVELOPMENT	Completed	2016-05-30 08:00:00	2016-06-28 00:00:00	
2015-12-15	35	Amending Open Government Ordinance to Allow Submission of Revised/Supplemental Items	Refer to the City Manager and City Attorney to draft an ordinance amending Berkeley Municipal Code Section 2.06.070.E (Open Government Ordinance) to allow the submission of revised or supplemental agenda material for the Supplemental Communications Packet 2. The revised or supplemental material must be submitted no later than 12 noon the day of the City Council meeting at which the item is to be considered. The online version of the City Council agenda shall also contain a link to such items. If revised agenda material is submitted by this deadline, it would not require a two-thirds vote of the Council to accept the material.	Council member		Jesse Arreguin, Susan Wengraf, Lori Droste		2016-06-10 17:00:00	City Clerk	Completed	2016-06-10 17:00:00		

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Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2015-12-15	54	Referral to City Manager: Establishment of Affordable Housing Small Sites Program Revised Version	Refer to the City Manager to: 1. Look into the feasibility of creating a Small Sites Program to allow non-profits to purchase small multi-family buildings (5-25 units) to create and preserve affordable housing, with an emphasis on properties with a high potential for conversion to cooperative homeownership. 2. Develop an inventory of City-owned land and other land owned by public agencies in the City of Berkeley which could potentially be used to create below-market rate housing.	Council member		Jesse Arreguin		2016-06-10 17:00:00	HEALTH, HSG & COMMUNITY SVC	Completed	2016-06-13 08:00:00	2016-12-13 00:00:00	2019-02-05 16:47:39 - Melissa McDonough/sys_user/d0?system_view=10&system_query=user_name=Mel McDonough Additional comment: 2 is completed. 1 was later prioritized long term as top priority of Council's housing action plan. Plan outline complete and w bring before HAC in July 2018.
2015-12-15	30	Provide Cost Estimates to Restore the Berkeley Pier	Refer to the City Manager to determine the cost to make the appropriate repairs so that it will be safe for public use.	Council member	City Council District 2			2016-06-10 17:00:00	CITY MANAGER'S OFFICE	Completed	2016-06-13 08:00:00	2017-03-14 00:00:00	
2016-01-19	24	Tenant Buyout Agreement Ordinance	Refer to the City Manager and the Rent Stabilization Board to draft an ordinance regulating situations where a tenant agrees to vacate a rent-controlled unit in exchange for a sum of money, known as a buyout.	Council member		Jesse Arreguin		2016-07-15 17:00:00	CITY MANAGER'S OFFICE	Completed	2016-07-18 08:00:00	2016-03-31 00:00:00	
2016-02-09	15	Budget Referral: Including BigBelly Solar Compactor Bins Allocation in the 2016 Mid-Year Budget Process	Refer to the 2016 Mid-year budget process the purchasing of BigBelly Solar Compactor Bins in order to save money, meet zero waste goals, and reduce Berkeley's greenhouse gas emissions.	Council member		Kriss Worthington, Lori Droste		2016-08-05 17:00:00	Public Works	Completed	2016-08-08 08:00:00	2018-07-24 00:00:00	2019-02-05 16:51:37 - Melissa McDonough/sys_user/d0?system_view=10&system_query=user_name=Mel McDonough Additional comment: 6/2018 RFPs received; 2 solar compactors to be issued contracts.
2016-02-09	26	Develop a Provision for the Landmarks Preservation Ordinance to Allow for the De-designation of a Landmark Designation for a Building that has been Legally Demolished (Continued from January 12, 2016)	Refer to the City Manager to develop a provision for the Landmarks Preservation Ordinance (LPO) that would allow a landmark designation to be de-designated for a building that has been previously landmarked but subsequently has been legally demolished.	Council member				2016-08-05 17:00:00	CITY MANAGER'S OFFICE	Completed	2016-08-08 08:00:00	2016-05-10 00:00:00	
2016-03-15	6	Prioritize Installation of Bicycle Lane on Fulton Street	Direct the City Manager and Transportation staff to prioritize and expedite the installation of a bicycle lane on Fulton Street between Bancroft Way and Channing Way.	Council member		Jesse Arreguin		2016-09-09 17:00:00	Public Works	Completed	2016-09-12 08:00:00	2016-05-10 00:00:00	
2016-04-05	10	Modify the Proposed Early Mitigation Fee Discount and Preserve Revenue Towards Units At Or Below 50% AMI and Add Sunset Clause (Continued from February 23, 2016)	That the City of Berkeley amend Council Item 10a to remove the option of paying a substantially-reduced mitigation fee at the issuance of a permit, and to preserve revenue from the mitigation fees to maintain or increase the funds designated towards units for incomes at or below 50% AMI, and add a sunset clause.	Council member		Kriss Worthington		2016-09-30 17:00:00	HEALTH, HSG & COMMUNITY SVC	Completed	2016-10-03 08:00:00	2016-07-19 00:00:00	
2016-04-26	31	Creation of 311 Mobile Application	Refer to the City Manager to create a mobile application for the 311 system and improve the 311 Online Service Center.	Council member		Jesse Arreguin		2016-10-24 08:00:00	Information Technology	Completed	2016-10-24 08:00:00	2016-11-15 00:00:00	
2016-05-10	21	Resolutions Consenting to Inclusion of the City of Berkeley Properties in the California Home Finance Authority PACE Programs and Associate Membership in California Home Finance Authority	ABAG has a new report and the City Council has voted twice in favor; thus, the City of Berkeley should approve and sign an agreement for collaborative services for Property Assessed Clean Energy Financing (PACE) marketplace. Also, that the City of Berkeley approve and sign acknowledgement addendum of RCSA, as executed between ABAG and RPPs.	Council member		Kriss Worthington		2016-11-04 17:00:00	City Attorney	Completed	2016-11-07 08:00:00	2016-09-20 00:00:00	
2016-05-31	22	City Manager Referral: Consider Adding Energy Efficient Equity as an Additional Property Assessed Clean Energy Program	Refer to the City Manager to consider adding Energy Efficient Equity as an additional property assessed clean energy program.	Council member		Kriss Worthington		2016-11-25 17:00:00	PLANNING & DEVELOPMENT	Completed	2016-11-28 08:00:00	2016-09-20 00:00:00	

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2016-05-31	20	Requesting a Comprehensive Report on the State of Homeless Services within the City of Berkeley	Request the City Manager direct staff to prepare a report outlining the details of City funded homeless services. The purpose of this report is to help Council and the community understand the various factors related to the allocation of resources to address homelessness within the City. Once the report is complete, it is requested that city staff schedule a worksession to go over the findings.	Council member		City Council District 5		2016-11-25 17:00:00	HEALTH, HSG & COMMUNITY SVC	Completed	2016-11-28 08:00:00	2016-11-01 00:00:00	
2016-06-28	47	City Manager Referral: Feasibility of Acquiring a High-Capacity Scanner for Multiple City Departments	Refer to the City Manager to consider investing in a high-capacity scanner to digitize City records for the Council and multiple City departments.	Council member		Kriss Worthington		2016-12-26 08:00:00	Information Technology	Completed	2016-12-26 08:00:00	2017-12-12 00:00:00	
2016-07-12	27	Refer to City Manager to Consider Applying for \$100,000 from the Better Together Resilient Communities Grant Program	That the City Manager consider applying for the \$100,000 grant that PG&E's Better Together Resilient Communities grant program will offer in the beginning of 2017.	Council member		Kriss Worthington		2017-01-06 17:00:00	PLANNING & DEVELOPMENT	Completed	2017-01-09 08:00:00	2016-12-31 00:00:00	
2016-07-19	41	Companion Report: Amend Berkeley Municipal Code Creating Community Health Commission	Refer to staff to write an ordinance based on the Community Health Commission (CHC) recommendation with the changes suggested by staff.			MAYOR AND COUNCIL		2017-01-13 17:00:00	HEALTH, HSG & COMMUNITY SVC	Completed	2017-01-16 08:00:00	2016-11-29 00:00:00	
2016-09-20	32	City Manager Referral: Implementing BigBelly Solar Compactor Bins	Refer to the City Manager to examine the feasibility of procuring BigBelly Solar Compactor Bins to save money, meet zero waste goals, and reduce Berkeley's greenhouse gas emissions.	Council member		Kriss Worthington, Lori Droste		2017-03-17 17:00:00	Public Works	Completed	2017-03-20 08:00:00	2018-07-24 00:00:00	2019-02-05 17:04:44 - MelissaMcDonough[sys_user]do?system:rr_view=0&system:rr_query=user_name=MMcDonough/ 6/2018 RFPs received; 2 solar compactors to be issued contracts. Additional comment
2016-09-20	22	Amending Council Rules Regarding Removal of Commissioners	Direct staff to return with a policy recommendation consistent with the recommendations in this report, i.e., noting that as a matter of courtesy and respect, Councilmembers are expected to set the date a commissioner is to be replaced on a commission and communicate that date to the commissioner not less than two weeks from the official date of replacement.	Council member		Commission		2017-03-17 17:00:00	City Clerk	Completed	2017-03-20 08:00:00	2018-06-12 00:00:00	2019-02-05 17:02:37 - MelissaMcDonough[sys_user]do?system:rr_view=0&system:rr_query=user_name=MMcDonough/ Incorporating changes from City Council. Additional comment
2016-09-20	21	City Manager Referral: Consider the Four Recommendations Contained in the Alameda County Grand Jury Report (Continued from July 19, 2016)	Refer to the City Manager to consider the four recommendations in response to the Alameda County Grand Jury Report recommendations.	Council member		Kriss Worthington		2017-03-20 08:00:00	Information Technology	Completed	2017-03-20 08:00:00	2016-10-20 00:00:00	
2016-10-18	25	Amendments to BMC 23C.23.050 to Allow a Third Option to Satisfy the Private Percent for Art Requirements	Request the City Manager draft an ordinance for Council adoption to revise BMC 23C.23.050, the One-Percent for Public Art on Private Projects Ordinance, to do the following: 1. Have 5% of the 1% requirement go directly to administration of the Public Art in Private Development program regardless of how the developer decides to satisfy the requirement;	Council member				2017-04-14 17:00:00	Office of Economic Development	Completed	2017-04-17 08:00:00	2017-01-24 00:00:00	
2016-10-18	41	City Plan for Emergency Shelter During Winter Season	Refer the following actions to the City Manager to consider in developing a plan for emergency shelter/services during the upcoming winter season. These actions will help implement Resolution No. 67,357-N.S. "Declaring a Homeless Shelter Crisis in Berkeley": 1. Allow full use of the Multi-Agency Service Center (MASC) at 1931 Center Street as a Warming Center. Direct the City Manager to study the feasibility of using the West Berkeley Senior Center as a day-time Warming Center or evening shelter. Engage in discussions with Dorothy Day House about a day-time respite center. 2. Direct staff to develop a winter shelter services program for Fall 2016-Spring 2017 with funding to increase warming centers and emergency shelter. 3. Direct staff to work with service providers and faith-based organizations who have capacity, to add shelter beds during the year. 4. Direct that all bathrooms in City-owned buildings be available to homeless people for use at the City Manager's discretion. 5. Prioritize people on the street for Housing First funds who are in frail health, disabled, or with special needs and have a source of income. Direct the City Manager to create a list of city-owned properties that could be used for a Tiny House development for the homeless, a successful and growing model for dense urban regions.	Council member		Jesse Arreguin		2017-04-14 17:00:00	HEALTH, HSG & COMMUNITY SVC	Completed	2017-04-17 08:00:00	2017-06-27 00:00:00	

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2016-10-18	26	Revisions to the Public Art in Private Development Program	Request the City Manager draft a resolution to revise the Public Art in Private Development Program Guide to provide the Civic Arts Commission guidance and more flexibility in the use of the Cultural Trust Fund with the language suggested in the report.	Council member				2017-04-14 17:00:00	Office of Economic Development	Completed	2017-04-17 08:00:00	2016-12-13 00:00:00	
2016-11-01	15	City Manager Referral: Increasing Transparency in City Public Record Act Responses	Approved revised recommendation to request a report from the City Manager on how the City is using the permitted exemptions in compliance with the Public Records Act.	Council member		Kriss Worthington		2017-04-28 17:00:00	City Attorney	Completed	2017-05-01 08:00:00	2016-12-13 00:00:00	
2016-12-13	29	Ordinance for Testing and Certification of DAS Antennas	Request that the City Manager draft ordinance language to amend Section 16.10.100 of the Berkeley Municipal Code to include Standards for Testing and Certification of DAS Antennas and return to the City Council within 60 days.	Council member		Susan Wengraf		2017-06-09 17:00:00	City Attorney	Completed	2017-06-12 08:00:00	2017-03-28 00:00:00	
2017-01-24	38	Berkeley Mothers Initiative	Request that the City Manager ensure that all City buildings provide and maintain at least one private place reasonably close to an employee's workspace for breastfeeding mothers to pump.	Councilmembers		Lori Droste		2017-07-21 17:00:00	CITY MANAGER'S OFFICE	Completed	2017-07-24 08:00:00	2017-07-01 00:00:00	
2017-01-24	37	Berkeley BABIES Initiative	Request that the City Manager create a provision and enforcement mechanism to ensure that all publically-accessible City buildings install and maintain at least one baby diaper-changing accommodation that is accessible in both men and women's restrooms or a single diaper-changing accommodation that is accessible to all genders. In addition, request that the City Manager provide recommendations to mandate all businesses to provide changing stations in either women's and men's restrooms or gender-neutral restrooms.	Councilmembers				2017-07-24 08:00:00	CITY MANAGER'S OFFICE	Completed	2017-07-24 08:00:00	2017-07-01 00:00:00	
2017-01-31	10	Medical Cannabis Ordinance Revisions and Cultivation Application Process	Request that the City Manager provide Council with analysis of the questions presented by Councilmember Sophie Hahn.	Council member				2017-07-28 17:00:00	PLANNING & DEVELOPMENT	Completed	2017-07-31 08:00:00	2017-11-07 00:00:00	
2017-02-14	11	Updated Information Report on Measure M	Request that the City Manager return to the City Council in April with an Information Report on Measure M implementation, expenditures, projected expenses and plans.	Council member				2017-08-11 17:00:00	Public Works	Completed	2017-08-14 08:00:00	2017-05-02 00:00:00	
2017-03-28	33	Referral Response: Cigarette Butt Pollution Prevention	REFER to the City Manager to enact a pilot program in downtown Berkeley with the goal of greatly reducing cigarette butt litter that accumulates on sidewalks and curbsides, in a central location. This pilot program would: a) Place a total of four receptacles for cigarette butt disposal in front of three adult schools and a bus stop where smoking behavior continues despite its prohibition. The receptacles are to be placed in front of: i. Berkeley City College, 2050 Center Street; ii. Language Studies International on 2015 Center Street; iii. Kaplan International, Berkeley, 150 Berkeley Square; and iv. a selected major bus stop in the vicinity of an entrance to the Downtown Berkeley BART station; and b) Exhibit graphics on the receptacles to remind and inform the public that tobacco litter is hazardous to the health of the Bay; and c) Enter into a partnering agreement with the Downtown Berkeley Association (DBA) for upkeep of the receptacles for the duration of the one-year pilot program, including sending collected butts to the company for recycling; and d) TerraCycle® will track the weight of butts received, and share the data with the City of Berkeley and CEAC commissioners to help track and assess the success of the pilot program; and e) Identify funding sources to expand the pilot program if successful at the end of the one year trial.	Commission			Community Environmental Advisory Commission	2017-09-22 17:00:00	Office of Economic Development	Completed	2017-09-25 08:00:00	2017-05-30 00:00:00	
2017-03-28	22	Security Camera Database	Request that the City Manager return to Council with an update on the referral to create a voluntary database of security cameras in Berkeley. With an increase in crime, residents are anxious to help the Berkeley Police Department solve cases and arrest the perpetrators - amended to include direction that guidelines protect privacy and prevent misuse of camera footage.	Council member				2017-09-25 08:00:00	Police	Completed	2017-09-25 08:00:00	2018-08-15 00:00:00	
2017-07-25	40	Expediting Elements of Previous Council Referral to Study Possible Scenarios of the Loss of Federal Funds	Direct the City Manager to expedite the compilation and delivery of a list of federal funds that the City of Berkeley receives and the programs and facilities supported by such funds.	Council member		Sophie Hahn, Jesse Arreguin, Cheryl Davila, Kate Harrison		2018-01-19 17:00:00	HEALTH, HSG & COMMUNITY SVC	Completed	2017-10-23 00:00:00	2018-12-11 12:22:40	2019-02-05 17:14:03 - Melissa McDonough/sys_user/cd?system_view=1&system_query=user_name=blmcdonough) Additional comment
2017-05-30	53	Eliminate the Required Affidavits of Residency for Commissioners	Eliminate the requirement for Commissioners to submit Affidavits of Residency when they are appointed, and annually thereafter, in pursuit of saving time and money for the City of Berkeley. Revised Materials - http://www.cityofberkeley.info/Clerk/City_Council/2017/05_May/Documents/2017-05-30_Item_53_Eliminate_the_Required_-_Rev.aspx	Council member				2017-11-24 17:00:00	City Clerk	Completed	2017-11-27 08:00:00	2017-09-12 00:00:00	

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2017-06-27	32	Housing Inspection and Community Services Manager	Request the City Manager to create and fill the position of Housing Inspection and Community Services Manager.	Council member				2017-12-22 17:00:00	PLANNING & DEVELOPMENT	Completed	2017-12-25 08:00:00	2018-09-13 00:00:00	2019-02-05 17:13:07 - Melissa McDonough/sys_user.do?system: view=full&system: query=user: name=MelMcDonough New position approved by Personnel Board. Will bring to Council for adoption by November which will complete referral.
2017-10-03	7	Request for Information Regarding Grant Writing Services from Specialized Grant Writing Firms	Refer to the City Manager to issue a request for information to explore grant writing services from specialized municipal grant-writing firms, and report back to Council.	Council member		Sophie Hahn, Kate Harrison, Cheryl Davila, Ben Bartlett		2018-01-01 17:00:00	Finance	Completed	2018-01-01 17:00:00	2019-09-24 12:41:03	2019-04-12 15:07:44 - Melissa McDonough/sys_user.do?system: view=full&system: query=user: name=MelMcDonough Issued #18-11201 Feb. 5, 2018 as an RFI (Request for information); closed March 1, 2018. Received 13 information response for review. Next Steps: use responses to inform scope of work, then release as RFP.
2017-07-25	51	Commercial Cannabis Regulations and Licensing	Refer to the City Manager and Cannabis Commission the proposed local ordinances to establish a licensing process for Commercial Cannabis operations, as permitted under Proposition 64, Adult Use of Marijuana Act. The Council requests that the City Manager and Cannabis Commission report to the City Council on its recommendations on regulations and licensing for commercial cannabis businesses before the end of 2017.	Council member				2018-01-19 17:00:00	PLANNING & DEVELOPMENT	Completed	2018-01-22 08:00:00	2018-09-13 00:00:00	2019-02-05 17:15:33 - Melissa McDonough/sys_user.do?system: view=full&system: query=user: name=MelMcDonough Lengthy process involving 3 Commissions and many City departments. Some Ordinance changes will be at Council 9/13/18 But more will be needed. Council Worksession scheduled for 10/9/18, then adoption of more Ordinance changes expected by end of year, which will close this referral.
2017-09-12	33	Voter Registration Forms in All City Buildings on Their Main Floors	Direct the City Manager to provide voter registration forms on the main floor of all designated city buildings that are open to the public and in all Community based organizations within the city limits. Community based organizations that are funded by the City of Berkeley will be required to pick up the voter registration forms from the City Clerk's Office and that should be clearly stated in their respective contracts.	Council member		Cheryl Davila, Kate Harrison, Sophie Hahn		2018-03-09 17:00:00	City Clerk	Completed	2018-03-12 08:00:00	2017-11-08 00:00:00	
2017-10-03	21	Referral to the City Manager to Provide a Public Master List of the Legislation on which the City Council Has Taken a Position	Request that the City Manager work with the City's lobbyist to create and maintain a master list of the legislation on which the City Council has taken a formal position of support or opposition through passage of an item.	Council member		Kate Harrison, Sophie Hahn, Cheryl Davila		2018-03-30 17:00:00	City Clerk	Completed	2018-04-02 08:00:00	2018-01-23 00:00:00	
2017-10-03	24	Parallel Permitting Process	Request that the City Manager in coordination with the Director of Planning and the Chief Building Official work to establish a voluntary parallel permitting process for applications to construct housing in the City of Berkeley.	Council member		Susan Wengraf, Linda Maio, Lori Droste, Jesse Arreguin		2018-03-30 17:00:00	PLANNING & DEVELOPMENT	Completed	2018-04-02 08:00:00	2017-11-01 00:00:00	2019-02-05 17:23:50 - Melissa McDonough/sys_user.do?system: view=full&system: query=user: name=MelMcDonough This voluntary parallel permitting option already exists. Following October 2017 referral we advised Building staff to be sure to make option known to interested applicants.
2018-01-23	27	Open the West Campus Pool All Year Round and Start the Shower Program at the West Campus Pool	Short Term Referral to City Manager to assess the feasibility to keep the West Campus Pool open all year round and to start COB Shower Program at the West Campus Pool. Keeping the West Campus Pool open all year round will provide equitable swimming options in both North Berkeley and in South/West Berkeley and provide another location available for our community to shower.	Council member		Cheryl Davila, Ben Bartlett		2018-07-20 17:00:00	Parks, Recreation & Waterfront	Completed	2018-04-23 00:00:00	2018-10-16 10:14:13	2019-02-05 17:38:54 - Melissa McDonough/sys_user.do?system: view=full&system: query=user: name=MelMcDonough a) On June 12, 2018, Council received an Off Agenda Memo that identifies the cost to establish a shower program at West Campus Pool. B) In mid-September 2018, Council will receive an Off Agenda Memo that describes the feasibility of keeping West Campus pool open year round.
2017-10-31	30	Short-Term Referral to the City Manager, a Process for Relocation of a Permitted Cannabis Dispensary	Refer to the City Manager to approve a process for the relocation of Apothecarium, a cannabis dispensary with valid permits.	Council member				2018-04-27 17:00:00	PLANNING & DEVELOPMENT	Completed	2018-04-30 08:00:00	2018-01-23 00:00:00	
2017-12-05	18	City Manager Referral: Prioritizing New Business Before Old Business at City Council Meetings	Prioritize new business before old business at City Council Meetings by: 1. Altering the Council rules of procedure as adopted May 24, 2016 so that new business comes before old business. The reformatted section will read "The agenda for the regular business meetings shall include the following: Ceremonial; Comments from the City Manager; Comments from the Public; Consent Calendar; Action Calendar (Appeals, Public Hearings, Continued Business, New Business, Old Business); Information Reports; and Communication from the Public"; and 2. Granting explicit authorization to Agenda Committee to move new business backwards or forwards at their discretion by amending section III E of the Rules of Procedure.	Council member				2018-06-01 17:00:00	City Clerk	Completed	2018-06-04 08:00:00	2018-01-30 00:00:00	

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2018-02-13	17	Referral to the City Manager to Submit a Filing to the CPUC Recommending Adjusting Electric Rule 20 to Better Serve the City of Berkeley and Other Communities with Very High Fire Hazard Severity Zones	A referral to the City Manager to submit a filing with the California Public Utilities Commission (CPUC) concerning the CPUC's current review of Electric Rule 20. The CPUC is considering, among other things, how the existing program is administered by the various utility companies operating in California and the definition of what projects are to be included in the public interest.	Council member		Susan Wengraf, Sophie Hahn, Jesse Arreguin, Lori Droste		2018-08-10 17:00:00	Public Works	Completed	2018-08-10 17:00:00		
2018-02-13	26	Referral to the City Manager on Gender Options of the General Application for City Boards and Commissions	Refer to the City Manager to add a nonbinary gender option on the General Application for appointment to Berkeley boards and commissions.	Council member		Lori Droste, Linda Maio, Susan Wengraf, Worthington		2018-08-10 17:00:00	City Clerk	Completed	2018-08-13 08:00:00	2018-03-01 00:00:00	
2018-02-27	22	Wildland Urban Interface Fire Safety and Fire Safety Education	Commission Referral #5 revised to read: 5. Refer to the Planning Commission to consider Accessory Dwelling Units (ADUs) in the Very High Hazard Fire Zone to review public safety issues especially relevant to the risk of WUI fires. Amend Section 23D.10 to incorporate greater public safety considerations to be met before issuing an Administrative Use Permit (AUP);		City Council and Mayor			2018-08-24 17:00:00	FIRE & EMERGENCY SERVICES	Completed	2018-08-24 17:00:00		
2018-03-13	17	Referral to the Arts Commission and the City Manager: Cost Estimate and Plan for Installation of Sculpture Lighting into Adjacent Street Lights for the William Byron Rumford Statue on Sacramento and Julia St	Refer to the City Manager a request to develop a cost estimate and an installation plan for installing sculpture lighting into adjacent street lights for the William Byron Rumford statue on Sacramento and Julia Street. Refer the cost estimate and plan to the Arts Commission.	Council member				2018-09-07 17:00:00	Public Works	Completed	2018-09-07 17:00:00		
2018-01-30	14	Direction and Referral to the City Manager Regarding "Premier Cru" Property	3. The Berkeley Way Affordable Housing Project is the City's top affordable housing priority. Premier Cru, as a City property, to be developed for affordable housing falls under the "High Priority" on the list of housing initiatives passed by Council on November 28, 2017. In light of the above, refer to the City Manager to take the following actions to move Premier Cru forward as a High Priority initiative: a. Based on recommendations from Health, Housing and Community Services and other Departments, the Housing Advisory Commission, and on consultation with local affordable housing providers, and taking into consideration requirements and restrictions associated with potential funding sources, create a recommendation or recommendations to Council regarding levels of affordability, unit sizes, on-site services and other features to be included in the proposed project or projects. b. Based on the above analyses and recommendations, and on Council direction, develop and issue an RFQ or RFP to affordable housing developers for proposals to develop affordable housing at the site.	Council member		Sophie Hahn, Jesse Arreguin, Linda Maio, Kate Harrison		2018-09-07 17:00:00	PLANNING & DEVELOPMENT	Completed	2018-09-10 08:00:00	2018-05-29 00:00:00	
2017-12-19	41	Companion Report: Public Works Commission Recommendation for the Five-Year Paving Plan	Adopt a Resolution updating the City's Five-Year Street Rehabilitation Plan for FY 2018 to FY 2022. The City Council may consider the information put forth by the Public Works Commission relevant to adoption of the recommended plan.					2018-09-21 17:00:00	Public Works	Completed	2018-09-24 08:00:00	2018-07-24 00:00:00	
2017-12-05	24	Ordinance Amending the Berkeley Municipal Code to Establish Ability to Pay Provisions Regarding Parking Fines and Fees in Accordance with Guidelines Established in Assembly Bill 503	to refer the item as written in Supplemental Reports Packet #2 to the City Manager to conduct an analysis of the item, including a review of current indigency procedures and coordination with similar efforts in the City of Oakland, and report back to the Council in 90 days.	Council member			Transportation Commission	2018-09-28 17:00:00	Finance	Completed	2018-09-28 17:00:00	2018-07-02 00:00:00	

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2018-04-24	17	Smoke-Free Residential Housing Ordinance to Staff and Berkeley Considers	The Housing Advisory Commission respectfully requests that the Council direct the City Manager to assist the HAC in its review of the Smoke-Free Residential Housing Ordinance, a regulation of tobacco use, as follows: 1. By responding to the HAC's questions enumerated in the report with any readily available responsive information. 2. By facilitating the conduct of a "Berkeley Considers" questionnaire about the Smoke-Free Residential Housing Ordinance, questions for which are proposed in the report.	Commission				2018-10-19 17:00:00	HEALTH, HSG & COMMUNITY SVC	Completed	2018-10-19 17:00:00	2019-03-17 14:41:36	
2017-07-25	10	Authorizing City Manager Approval for Community Development Block Grant (CDBG) Community Facility Improvement Contracts Under \$200,000; Amending BMC Chapter 7.18	Adopt first reading of an Ordinance, by two-thirds vote of the Council, amending Chapter 7.18 of the Berkeley Municipal Code to authorize the City Manager to enter into and amend contracts of up to \$200,000 with applicants recommended for funding by staff and the Housing Advisory Commission under the City's Community Development Block Grant (CDBG) program for community facility improvements.					2018-10-19 17:00:00	HEALTH, HSG & COMMUNITY SVC	Completed	2018-10-22 08:00:00	2018-04-24 00:00:00	
2018-07-31	10	Direction to the City Manager Regarding the Community Service In Lieu of Parking Penalties Program	Direct the City Manager to amend the eligibility requirements of the Community Service In Lieu of Parking Penalties Program in order to allow all indigent individuals to be eligible to participate in the program (regardless of the registration status of a potential participant's vehicle).	Council member		Ben Bartlett, Cheryl Davila, Kate Harrison, Sophie Hahn		2018-10-29 17:00:00	Public Works	Completed	2018-10-29 17:00:00	2019-01-19 15:21:35	2019-08-27 15:23:33 - Nancy Melendez (sys_user42) system: view=full&system_query=user_name=Nmelendez FJ/DP: Aside from the fact that Public Works is not actually involved in citations or citation payment plans or alternatives this program exists and the FAQ at the link below was updated January 2019. https://www.cityofberkeley.info/uploadedFiles/City_Manager/Level_3_General/COMMUNITY%20SERVICE.pdf
2018-05-15	23	Transgender Health Access Training at City of Berkeley Clinics	Adopt a Resolution providing \$2,400 from the General Fund to support a half-day Transgender Health Access Training for City of Berkeley Public Health staff in June 2018.	Commission				2018-11-09 17:00:00	HEALTH, HSG & COMMUNITY SVC	Completed	2018-11-10 17:00:00	2019-02-04 10:22:57	2019-02-05 15:38:44 - Melissa McDonough (sys_user40) system: view=full&system_query=user_name=MMcDonough Because this is a multidepartmental task assigned to Public Works, involving Finance and City Attorney, and administered by the City of Oakland, the completion date is unclear. 2019-04-15 10:25:13 - Laura Schroeder (sys_user47) system: view=full&system_query=user_name=LSchroeder On February 4, 2019 staff from public health and mental health attended a training on Transgender Access to Public Health
2018-05-29	14	Budget Referral: Increasing Safety at San Pablo Park	Request the City Manager perform traffic assessments to gather data and refer any needed improvements to the FY 2020 – FY 2021 budget process.	Councilmembers		Cheryl Davila		2018-11-13 17:00:00	Public Works	Completed	2018-11-13 17:00:00	2019-05-16 00:00:00	
2018-05-29	14	Implementation of Secure Storage Program	1. Direct the City Manager to expedite implementation of two publicly available, secure storage facilities to accommodate as many individuals as possible, based on the parameters set in staff's March 2, 2018 RFI: Downtown Homeless Storage Pilot - Staffing and Operations and on additional parameters outlined in Program Details, below. 2. Direct the City Manager to publicize the locations, hours, and rules applicable to new storage facilities through normal outreach channels (website, press release, etc.) and through direct outreach to homeless individuals by the City, community organizations (CBOs) and other partners such as the Downtown Berkeley Association and Telegraph Avenue BID. 3. Refer \$100,000 to the budget process; an added \$25,000 for the downtown storage location and \$75,000 for storage in West Berkeley.	Council member				2018-11-23 17:00:00	HEALTH, HSG & COMMUNITY SVC	Completed	2018-11-26 08:00:00	2018-07-24 00:00:00	
2018-12-11	23	Short-term referral to City Attorney and Health Housing and Community Service to amend Berkeley Municipal Code 7.441-N.S. to expand the control of flavored tobacco across the City of Berkeley toward preventing youth and young adult tobacco use	Short-term referral to City Manager to amend Berkeley Municipal Code 7.441-N.S. according to the changes made in the attached amended ordinance to prohibit the sale of flavored tobacco products and require a minimum package size for cigars and little cigars across the City of Berkeley. The primary purpose of the amendment to the ordinance is to do more to prevent youth and young adult tobacco use.	Councilmembers		Cheryl Davila		2018-12-11 17:00:00	City Attorney	Completed	2018-12-11 17:00:00	2019-09-10 13:15:43	

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2018-09-13	31	Short-Term Referral to City Manager re: Emergency Standby Officers Qualifications	Referral to the City Manager to consider the following suggestions for requirements and qualifications for Emergency Standby Officers and return to Council within 90 days with recommendations. Possible requirements may include: -Trainings in roles and responsibilities to serve as a standby officer possibly including: ethics and workplace harassment. -City government experience. -Council District residency. -Require standby officers to meet the same qualifications, including restrictions on conflict of interest, as required in the City Charter for City Councilmembers. -In addition, consider requiring Councilmembers to nominate three people in a single action.	Council member		Susan Wengraf, Jesse Arreguin, Sophie Hahn		2018-12-11 17:00:00	City Clerk	Completed	2018-12-11 17:00:00	2019-05-02 12:02:38	2019-02-05 15:21:26 - Melissa McDonough (sys_user:do2 system:11 view=11&system:11 query=user_name=MMcDonough) Ongoing discussion with City Attorney regarding potential criteria <small>Additional comments</small>
2018-07-10	17	Referral to City Manager to Consolidate all City Commission Workplans in One Place for Easy Access for Staff, the Public, and Elected Officials	Make a referral to the City Manager to consolidate all City Commission Workplans in one place for easy (electronic) access for staff, the public, and elected officials.	Council member				2019-01-04 17:00:00	City Clerk	Completed	2019-01-07 08:00:00	2018-09-13 00:00:00	
2018-10-30	20	Proposed Portland Loo Installations in Telegraph Commercial District	Short-Term Referral to the City Manager to identify costs for the installation of a "Portland Loo" type of bathroom facility in Telegraph Commercial District. Costs should be comprehensive and include, but not be limited to: the facility, infrastructure, design, construction, oversight and any contingencies.	Councilmembers		Jesse Arreguin, Sophie Hahn		2019-01-31 17:00:00	Public Works	Completed	2019-01-31 17:00:00	2019-02-27 00:00:00	
2018-11-13	23	Clarifying Jurisdiction of Ohlone Greenway	Refer to the City Manager to review the recommendation to place the Ohlone Greenway under park rules and policies with the intent of revising the BMC to include the Ohlone Greenway as open space and enforce park-like rules.	Councilmembers		Linda Maio, Sophie Hahn, Kate Harrison		2019-02-13 17:00:00	City Attorney	Completed	2019-02-13 17:00:00	2019-09-17 10:57:38	2019-09-17 10:57:27 - Christopher Jensen (sys_user:do2 system:11 view=11&system:11 query=user_name=CJensen) Referral response complete; Public Works is providing assistance on right-of-way issues. <small>Additional comments</small>
2017-05-02	27	Berkeley Bicycle Plan 2018	Adopt a Resolution approving the Berkeley Bicycle Plan 2017, and directing the City Manager to pursue implementation of the Plan as funding and staffing permit.					2019-02-15 17:00:00	Public Works	Completed	2019-02-15 17:00:00		2019-04-24 10:04:24 - Mark Numainville (sys_user:do2 system:11 view=11&system:11 query=user_name=MNumainville) City Attorney provided legal opinion to PRW. PRW to report to Council. <small>Additional comments</small>
2018-11-13	24	Budget Referral: Increasing Safety at San Pablo Park	4. Develop, implement and coordinate drills for active shooter and other emergency protocol at San Pablo Park: Create protocol with input from community partners, then orient licensed daycare providers, coaches, trainers and program staff who operate out of the park, and conduct drills with City staff operating the Center and providers in order to prepare for emergencies and how to use the Center as a shelter during or following them.	Councilmembers		Cheryl Davila		2019-03-01 17:00:00	Police	Completed	2019-03-01 17:00:00	2019-03-30 15:34:27	2019-04-24 15:35:06 - Melissa McDonough (sys_user:do2 system:11 view=11&system:11 query=user_name=MMcDonough) Training class conducted March 30 <small>Additional comments</small>
2017-12-05	17	City Manager Referral: Consider CPUC Interconnection Applications	Refer to the City Manager consideration of applying for CPUC interconnection applications.	Council member				2019-03-04 16:00:00	Public Works	Completed	2019-03-04 16:00:00	2018-04-04 00:00:00	
2018-09-13	18	Adopt a Resolution in Support of Appropriate City Enforcement Measures to Mitigate Damages Resulting from the Removal of Trees at 1698 University Avenue	Amended to be a referral to the City Manager regarding enforcement of measures to mitigate damage to the general welfare of the City and neighborhood resulting from the damage and subsequently-required removal of trees at 1698 University Avenue.	Council member		Kate Harrison		2019-03-11 17:00:00	PLANNING & DEVELOPMENT	Completed	2019-03-11 16:00:00	2018-10-01 15:56:16	
2018-09-25	22	Safe storage of firearms - Revised materials (Supp 2)	Refer to the City Manager to review draft Safe Storage of Firearms ordinance, identify and resolve issues, and return to Council within 90 days.	Council member		Susan Wengraf, Sophie Hahn		2019-03-22 17:00:00	City Attorney	Completed	2019-03-23 16:00:00	2018-12-24 16:21:16	
2018-10-02		Lobbyists Registration and Regulation Ordinance; Amendments to Existing Revolving Door Ordinance	Request an analysis from the City Manager before the November budget discussion on the administrative impacts and cost to implement the lobbyist ordinance.	Council member		MAYOR AND COUNCIL		2019-03-29 17:00:00	City Attorney	Completed	2019-03-30 16:00:00	2019-01-22 12:32:26	

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2018-10-02	9	Amend BMC Chapters 6.24 and 14.52 to Authorize Paid Parking on Shattuck Avenue between Carleton Street and Ward Street and add the Northside (Euclid/Hearst) Metered Parking Area to the goBerkeley Program; and Authorize Paid Parking at the City-Owned Adeline/Alcatraz Parking Lot	Request staff to perform an analysis of the parking in the Northside area during the academic year to be completed within six months.	Council member		MAYOR AND COUNCIL		2019-04-02 17:00:00	Public Works	Completed	2019-04-02 17:00:00	2019-08-01 15:29:17	<p>2019-08-27 15:29:52 - Nancy Melendez (sys_userdo?system: view=full&system: query=user_name=NancyMelendez) GH: Staff conducted an analysis of the parking in the Northside area in spring 2019, roughly six months after goBerkeley pri and time limits went into effect on November 1, 2018. As summarized the June 25, 2019 Information Report submitted to Council, the data showed that goBerkeley changes are working as intended to increase parking availability in the area. Two minor adjustments to prices and time limits in "Value" zones went into effect August 1, 2019</p>
2018-10-30	35	City Manager referral: Initiate a franchise agreement with FlixBus	That the Council refer to the City Manager initiation of a franchise agreement with FlixBus, requiring a permit issued by the Director of Public Works, establishing a fee for the issuance of the permit, establishing administrative penalties for failure to obtain a permit or violation of permit requirements, and providing a procedure for the assessment and collection of administrative penalties for permit violations.	Councilmembers		Kriss Worthington		2018-10-30 17:00:00	Public Works	Completed	2019-05-01 11:39:27	2019-05-23 00:00:00	<p>2019-02-05 16:25:11 - Melissa McDonough (sys_userdo?system: view=full&system: query=user_name=MelMcDonough) Per Council direction to conduct a study in 6 months, the due date should be April 2, 2019, which is 6 months from October : 2018.</p> <p>2019-04-23 11:49:56 - Mark N Mainville (sys_userdo?system: view=full&system: query=user_name=MarkMainville) Resolution of Intent adopted on 3/26/19; Public Hearing set for 4/30/19</p>
2018-10-16	25	Welcome to Berkeley Signage	Refer to the City Manager on a short term basis to replace all the Welcome to Berkeley signs with the Option B design per the Transportation Commission recommendation, including "Ohlone Territory" but not a second motto. Also, leave space on the sign to add a policy message and consult with Ohlone leaders on the use of the word "territory."	Councilmembers	City Council District 2	Cheryl Davila		2018-10-16 17:00:00	Public Works	Completed	2019-05-03 12:00:00	2019-02-07 00:00:00	
2019-02-19	21	Refer to the Planning Commission an amendment to BMC Chapter 23C.12.020 (Inclusionary Housing Requirements - Applicability of Regulations) and the Affordable Housing Mitigation Fee Resolution to Close a Loophole for Avoiding the Mitigation Fee through Property Line Manipulation	1) Refer to the Planning Commission an amendment to BMC Section 23C.12.020 (Inclusionary Housing Requirements – Applicability of Regulations) and BMC Section 22.20.065 (Affordable Housing Mitigation Fee) to close a loophole allowing prospective project applicants to avoid inclusionary affordable housing requirements for projects by modifying property lines so that no lot is large enough to construct five or more units; the Commission should return to Council with a report by April 30, 2019. 2) Refer to the Planning Commission to consider modifying the structure of in-lieu fees for owner-occupied developments to a flat per-unit fee, as with rental developments, or a per square foot fee; the Commission should return to Council with a report. 3) Refer to the Housing Advisory Commission to assess the appropriateness of the fee level as suggested in the proposed amendments to BMC 23C.12. 4) The Planning Commission is to consider the following language from the item submitted at the meeting: It is possible that the new fee structure will be adopted prior to the Housing Advisory Commission approving the level of the fee. In this instance, those projects that opt to pay the in-lieu fee and are permitted after the new fee structure is adopted but before the new fee level is adopted shall be given the choice of paying the current fee level, or the one that is adopted.	Councilmembers		Kate Harrison, Rigel Robinson, Sophie Hahn		2019-05-21 17:00:00	PLANNING & DEVELOPMENT	Completed	2019-05-21 17:00:00	2019-06-11 09:40:07	<p>2019-04-15 09:44:51 - James Bondi (sys_userdo?system: view=full&system: query=user_name=JBondi) Scheduled for Council 4/30/19.</p> <p>2019-04-12 16:04:35 - Melissa McDonough (sys_userdo?system: view=full&system: query=user_name=MelMcDonough) May be done at Council 4/30/19, pending recommendation from Planning Commission (special Public Hearing 4/3/19).</p>
2019-02-19	9	Short-Term Referral: Develop Ordinance permitting Cannabis Events and designate Cesar Chavez Park as an Approved Venue	Short-Term Referral to the City Manager to develop ordinance amendments permitting up to three cannabis events per year in the first year in the City of Berkeley and designating Cesar Chavez Park as the sole approved location for cannabis events, provided such events are organized and licensed as required by the State of California. The ordinance shall: 1. reference Resolution No. 68,326-N.S., declaring that Berkeley is a sanctuary for adult use cannabis, 2. specify procedures for such events that replicate similar alcohol related event protocols. The City Council will revisit the provisions of the ordinance following the first year of implementation.	Councilmembers		Jesse Arreguin		2019-05-21 17:00:00	PLANNING & DEVELOPMENT	Completed	2019-05-22 00:00:00	2019-04-15 09:54:32	<p>2019-04-15 09:54:26 - James Bondi (sys_userdo?system: view=full&system: query=user_name=JBondi) Council considered and opted not to adopt policy, 4/2/19.</p> <p>2019-04-12 16:02:31 - Melissa McDonough (sys_userdo?system: view=full&system: query=user_name=MelMcDonough) Pending Council adoption of Cannabis Ordinance revisions scheduled for April 2 (second reading April 23).</p>
2017-07-25	37	Reviewing the GIG Car Share Pilot Program	Refer to the City Manager and Transportation Department a review of the concerns, emerging regarding some features of the recently implemented GIG Car Share pilot program, request adjustments before the two-year pilot program from staff.	Council member		Linda Maio, Susan Wengraf		2019-05-28 17:00:00	Public Works	Completed	2019-05-28 17:00:00	2019-05-28 11:39:27	<p>2019-02-05 15:16:47 - Melissa McDonough (sys_userdo?system: view=full&system: query=user_name=MelMcDonough) The program evaluation will be conducted in early 2019 and an action report prepared for Council to continue, modify, or discontinue the pilot.</p>

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2019-03-26	23	Referral to City Manager to Scope Process and Estimate Cost of New General Plan	Referral to the City Manager to return to City Council with an outline of the process for creating a new City of Berkeley General Plan. The cost for the first two years of work will be included in the report for consideration during the upcoming 2020-2021 Budget Process.	Councilmembers		Jesse Arreguin, Cheryl Davila		2019-06-21 17:00:00	PLANNING & DEVELOPMENT	Completed	2019-06-21 17:00:00	2019-06-12 09:41:11	2019-04-15 09:53:31 - James Bondi (sys_userdo?system: view=full&system: query=user_name=JBondi) Additional comments: Scoping has begun. Off-Agenda Memo will provide answers (date TBD)
2018-12-11	26	Referral to the City Manager and Planning Commission to Update the Housing Pipeline Report to Address Timeline between Planning Entitlements and Submission of Building Permit Applications and Consider Reasons for Delay	Referral to the City Manager to include in the Housing Pipeline Report an analysis of the time between planning entitlements and building permit requests for all projects of five units or greater over the past five years. On an ongoing basis, refer to the City Manager and Planning Commission to propose changes to current Planning approval process to address the causes of delays between entitlements and building permits for construction or substantial rehabilitation of five or more dwelling units.	Councilmembers		Kate Harrison		2018-12-11 17:00:00	PLANNING & DEVELOPMENT	Completed	2019-07-16 16:43:23	2019-07-23 11:40:57	
2018-11-13	18	Short-Term Referral to City Manager to Complete Steps Necessary to Establish Lava Mae Services in Berkeley	Short-term referral to the City Manager to coordinate with Fire, Planning and Public Works Department Heads to provide permits, identify locations and allow access to water and disposal hook-ups necessary to bring Lava Mae shower services to Berkeley's homeless populations within 90 days for a 6-8 week pilot. This includes: -Determining locations to set up portable shower; and -Identifying water source for hook ups designated to dispense water for showers, either fire hydrants (preferred) or garden hose spigots; and -Parking permits for shower trailer; and -Identifying sewage manholes designated to pump out/dump gray and black water (H2O) into the sewer system; and -Calendaring a Fire Department inspection to inspect the propane to heat up the H2O on the first day of operation or through a dry run. Starting January 2019, Lava Mae is prepared to bring shower service two days a week to two consistent locations (one day per a location) at no charge to the City of Berkeley or the users of the services. The proposal is to start with an 8-week pilot in two locations to test sites.	Councilmembers		Cheryl Davila, Sophie Hahn		2019-09-10 17:00:00	CITY MANAGER'S OFFICE	Completed	2019-09-10 17:00:00	2019-09-12 08:29:03	2019-09-12 08:30:15 - Melissa McDonough (sys_userdo?system: view=full&system: query=user_name=MMcDonough) Additional comments: Report on Council agenda. 2019-08-07 15:07:11 - Melissa McDonough (sys_userdo?system: view=full&system: query=user_name=MMcDonough) Additional comments: Sites and hook-ups have been established.
2017-10-31	17	Expanded Criteria for the Installation of Stop Signs	1. Refer to the Transportation Commission consideration of additional or supplemental stop sign criteria which addresses the needs of vulnerable populations, the presence of bicycle boulevards, and the difficulty of crossing particular intersections. 2. Direct that staff consult with the Bicycle Subcommittee of the Transportation Commission when making decisions impacting bicycle boulevards, whenever possible. 3. Request that the City Manager provide an informational report on the particular state and federal warrants and local policies that prevent stop signs being used as traffic calming measures.	Council member		Kate Harrison, Ben Bartlett, Lori Droste	Transportation Commission	2018-01-29 17:00:00	Public Works	Past Due	2018-01-29 17:00:00		2019-09-25 08:55:09 - Melissa McDonough (sys_userdo?system: view=full&system: query=user_name=MMcDonough) Additional comments: Commission Recommendation and City Manager Companion report are under review and tentatively scheduled for council approval in Nov 2019. 2019-02-05 16:27:28 - Melissa McDonough (sys_userdo?system: view=full&system: query=user_name=MMcDonough) Additional comments: Transportation Commission formed a subcommittee and held first meeting 6/11/18, additional meetings to be planned by subcommittee.
2017-07-25		Public Toilet Policy	Refer to the City Manager to develop the following "Neighborhood Public Toilet Policy": Develop a process in which residents can obtain a permit for a neighborhood public toilet via an official petition; Residents should contact the City via 311 to obtain an official petition form to apply for a permit; In order to obtain the permit, the petition should be signed by at least 51% of residential addresses and business owners within the nearest two block radius of the proposed public toilet site; The City shall not fund or contribute to the financing of the public toilets or their maintenance.	Council member				2018-06-29 17:00:00	CITY MANAGER'S OFFICE	Past Due	2018-06-29 17:00:00		2019-08-05 09:47:54 - Melissa McDonough (sys_userdo?system: view=full&system: query=user_name=MMcDonough) Additional comments: Staff have prepared a memo which will be submitted to Council in Fall 2019. 2019-04-24 15:13:54 - Melissa McDonough (sys_userdo?system: view=full&system: query=user_name=MMcDonough) Additional comments: Still on hold as staff attention is on RV, TNC. 2019-04-12 15:41:24 - Melissa McDonough (sys_userdo?system: view=full&system: query=user_name=MMcDonough) Additional comments: Staff transition and priority put on TNC, RV policy, and Safe Clean Streets

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2018-07-10	20	Refer to City Manager to look into adopting an ordinance requiring a permit process for scooter sharing companies to operate on public streets	Refer to the City manager to look into adopting an ordinance establishing a pilot Powered Scooter Share Permit Program for 24 months, requiring a permit issued by the Director of Public Works, establishing a fee for the issuance of the permit, establishing administrative penalties for failure to obtain a permit or violation of permit requirements, providing a procedure for the assessment and collection of administrative penalties for permit violations or parking or leaving standing an unpermitted powered scooter subject to the pilot Powered Scooter Share Permit Program on a sidewalk, street, or other public right-of-way.	Council member		Kriss Worthington, Sophie Hahn	Transportation Commission	2018-11-27 17:00:00	Public Works	Past Due	2018-11-27 17:00:00		<p>2019-08-07 11:03:01 - Nancy Melendez (sys_user47) system: view=full&system:query=user_name=NMelendez Additional comment: City issued an RFP for Franchise applications due back by 1/25/19. A panel consisting of staff reps from Public Works, Police, 311, Economic Development and UC Berkeley scored the applications draft Council report was prepared to recommend the top 3 scorers when staff learned that the City of San Diego was being sued by Disability Rights California over accessibility impacts of permitted scooter sharing operations. City of Berkeley staff is reevaluating the scooter applications with an eye toward requirements informed by the lawsuit. The approval of 3 Scooter Franchises is expected to go to Council in Oct 2019.</p>
2017-12-19	22	Develop Ordinance Prohibiting Companies Participating in the Construction of a Border Wall from Contracting with the City of Berkeley	Direct the City Manager to develop an ordinance prohibiting companies involved in the construction of a border wall from contracting with the City of Berkeley. Return to Council with the proposed ordinance within 90 days.	Council member		Ben Bartlett, Sophie Hahn, Cheryl Davila		2018-07-20 17:00:00	Finance	Pending Not On Schedule	2018-07-20 17:00:00		
2015-11-17	28	Improve Conditions on Our Community Sidewalks; Amending Berkeley Municipal Code Chapters 13.36 and 14.48	Discuss and refer the following services and ordinances to the City Manager for implementation, and adopt first reading of three Ordinances: 1. Adding Section 13.36.085 to the Berkeley Municipal Code prohibiting urination and defecation in public places. 2. Amending Sections 14.48.020 and 14.48.170 of the Berkeley Municipal Code regulating use of sidewalks. 3. Adding Section 13.36.040 to the Berkeley Municipal Code prohibiting obstruction of City-owned planters and trees. Additional Services: 1. Create a secure storage facility for personal belongings; bins must be of adequate size, of reasonable number (estimate of 50 – 100 at the outset) and ensure reasonable access, with posted hours. 2. Provide additional bathrooms in the Downtown and Telegraph areas. 3. Provide mobile showers and bathrooms for public use.	Council member		Linda Maio, Lori Droste		2019-02-28 16:00:00	CITY MANAGER'S OFFICE	Pending On Schedule	2019-02-28 16:00:00		<p>2019-08-07 14:46:28 - Melissa McDonough (sys_user42) system: view=full&system:query=user_name=MMcDonough Additional comment: Storage is done as is mobile showers and expansion of bathrooms, 14.48 re: sidewalks is done.</p> <p>2019-04-24 15:06:11 - Melissa McDonough (sys_user42) system: view=full&system:query=user_name=MMcDonough Additional comment: Outreach information disseminated to people on streets; another round of personal notification starts 4/16/19 and 3 person team starts 4/23/19.</p>
2019-03-26	15	Dynamex Decision Impact and Compliance on Minimum Wage Ordinance and Paid Sick Leave Ordinance	That the City Council refers to the City Manager and the Labor Commission to ensure the Berkeley Minimum Wage Ordinance (MWO) and Paid Sick Leave Ordinance are interpreted and enforced in a manner consistent with the holdings in Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal.5th 903.	Councilmembers		Ben Bartlett		2019-03-26 17:00:00	City Attorney	Pending Schedule	2019-03-26 17:00:00		<p>2019-09-17 10:59:00 - Christopher Jensen (sys_user47) system: view=full&system:query=user_name=CJensen Additional comment: A draft opinion is under review in the City Attorney's office.</p> <p>2019-06-18 06:04:27 - Melissa McDonough (sys_user42) system: view=full&system:query=user_name=MMcDonough Additional comment: The City Attorney's Office is drafting a City Attorney opinion analyzing the holding in Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4Cal.5th 903 with respect to the City's MWO and PSLO. The completed memo will be referred to the City Manager and the Labor Commission for review by June 24, 2019 and any related action, including amending ordinances as necessary.</p>

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2017-03-14	24	Referral to Consider Caregiver Parking in Residential Shared Parking Pilot	Refer to the City Manager and Transportation Commission to consider a pilot program for caregiver parking permits in RPP zones in the goBerkeley Residential Shared Parking Pilot.	Council member				2020-06-12 17:00:00	Public Works	Pending On Schedule	2020-06-12 17:00:00		<p>2019-09-25 09:09:40 - Melissa McDonough (sys_user:do2system:11 view=full&sys:all_query=user_name=Mel McDonough) This fall, City staff, with vendor support, will be collecting "existing conditions" data in the Southside and Elmwood pilot areas, including soliciting public input from a range of stakeholders who are parking in these areas. As part of this process, w will assess the need/demand for caregiver parking in the pilot areas.</p> <p>2019-04-12 14:22:07 - Melissa McDonough (sys_user:do2system:11 view=full&sys:all_query=user_name=Mel McDonough) Ongoing, part of 3-year pilot project (Spring 2018); staff will work with consultants to collect data to determine the various needs and constraints of all residential parking users, including those with childcare needs; subsequent policy proposals will balance these needs. Contract for outreach consultant has been executed and work i starting in 2019.</p>



Office of the City Manager

INFORMATION CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Kelly Wallace, Interim Director, Health, Housing and Community Services

Subject: Referral Response: City Property for Affordable Housing and Modular Micro-Unit Buildings

SUMMARY

On November 28, 2017, the City Council adopted the Affordable Housing Action Plan, with two referrals directed at utilizing City-owned property for development:

- a. Utilize the list of City-owned properties developed by staff [February 14, 2017 report] and further examine opportunities for developing affordable housing on these sites.
- b. Identify parcels of City-owned land appropriate for siting assisted-living modular micro-unit buildings; take affirmative steps to speed the permitting and approvals process; obtain zoning approval and a building permit and approvals process for the creation of below-market housing; identify a housing non-profit to be responsible for managing and operating the building; and establish criteria for selecting individuals and determining eligibility.

On February 14, 2017, City staff provided an inventory of City-owned properties and evaluated the sites most suitable for affordable housing development. Evaluation criteria included the sites' zoning designation, square footage, current use, and whether or not properties were protected as parks or open space under the Berkeley Public Parks and Open Space Preservation Ordinance ("Measure L") in order to identify sites that are most likely to accommodate a multi-family residential rental development and be most competitive for affordable housing funding.

This report provides an update on the City's accomplishments to facilitate the development of City-owned property since the 2017 report as well as potential future actions to consider. These recommendations are considered in context of the 2017 report's evaluation criteria. Since that report, City Council identified several opportunity sites for affordable housing development: the West Berkeley Service Center, the North Berkeley BART station, and the Ashby BART station, which were included in the 2017 analysis due to their active uses. This report identifies an additional two properties which could be future opportunity sites: the North Bowling Green and Santa Fe ROW.

The North Bowling Green could be developed if Berkeley voters passed a ballot measure exempting it from Measure L, which protects certain open space sites. The site has not been an active public space for several years. The site's current zoning is not dense enough to allow for conventional affordable housing.

In addition to these opportunity sites, staff are currently working on two competitive disposition processes to facilitate affordable units on smaller City properties at 1654 Fifth Street and 1281 University Ave. These properties don't match the criteria for typical affordable housing development, and staff is exploring options for alternative development. There is currently an open RFP for rehabilitation of the single family home at 1654 Fifth Street for homeless housing, approved by Council on June 11, 2019. Staff anticipate bringing a recommendation to Council for the disposition of the property in early 2020. On September 10, 2019, the City Council directed the City Manager to issue a RFP for residential development at 1281 University Ave. with a requirement that 100% of the on-site units to be restricted to 80% AMI or below households with at least 10% at 50% AMI, with consideration given to accommodations that serve unhoused or homeless households, including nontraditional living arrangements such as tiny homes and that Council consider interim use for the site for housing purposes. Staff are currently working on a schedule for drafting and issuing the RFP in accordance with Council's direction.

All affordable housing developments in Berkeley now benefit from expedited permit approvals following Council action in October 2017, consistent with the micro-unit referral.

CURRENT SITUATION AND ITS EFFECTS

This report responds to two referrals from the Affordable Housing Action Plan: to use the list of City properties presented by City staff on February 14, 2017 and further examine opportunities for placing affordable housing, and to identify City-owned property for assisted-living modular micro-unit buildings (and coordinate the expedited development with a non-profit developer). These referrals originally appeared on the agenda of the November 28, 2017 Council meeting and were sponsored by Mayor Jesse Arreguin and Councilmember Kate Harrison.

Allocating City property for affordable housing development is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support services for our most vulnerable community members.

Inventory of City Property's for Affordable Housing Development

In the February 14, 2017 information report, staff identified potential City properties suitable for affordable housing development using four basic criteria: 1) zoned allowing multifamily development; 2) larger than 15,000 square feet; 3) not protected under Measure L; and 4) have no existing structures. The majority of City properties retain active uses and are not suitable for development (i.e. community centers, parks).

There were two properties that met all these criteria: Berkeley Way, which is expected to start construction in the spring, and the Elmwood parking lot (2642 Russell Street). The Elmwood lot technically met the criteria, but its shape, lot lines, proximity to existing commercial and residential uses, and likely need for replacement parking do not make it a strong candidate for development.

Current Opportunity Sites

Since the 2017 report, the City Council has subsequently identified several opportunity sites as priorities for affordable housing development that were not on the original list due to current active uses:

- North Berkeley BART;
- Ashby BART; and
- West Berkeley Service Center.

On April 30, 2019, the City Council also approved a \$150,000 grant for the Berkeley Unified School District (BUSD) to develop a feasibility study for BUSD-owned properties for affordable educator housing.

Affordable housing target goals are identified for Ashby BART in the draft Adeline Corridor Specific Plan. BART's development policy requires at least 20% of units at any given station must be affordable, with a priority to low and very low-income households. BART's policy aims for 35% of its portfolio to be affordable. Both of these properties could host new affordable housing.

The City Council's Land Use, Housing and Economic Development Policy Committee has discussed the redevelopment of the West Berkeley Service Center, currently home to several City and community programs. Staff anticipates an item on this site will appear on the Council agenda at a future date.

Potential Opportunity Sites

Two additional City-owned properties in the inventory could facilitate development, but have restrictions: the North Bowling Green (at 1324 Allston Way) and the Santa Fe Right of Way (ROW) (multiple sites).

If the City Council is interested in exploring development at these sites, the City Attorney should be consulted for an opinion on their status related to Measure L protections. The Santa Fe ROW is currently zoned for small residential development which would need to be adjusted to facilitate larger affordable housing development.

On June 25, 2019, the City Council referred remediation services for both sites to the November 2019 Annual Appropriations Ordinance (AAO) process. Remediation is anticipated to enable an RFP for alternative housing options such as tiny homes. The City Council would need to place a ballot measure on an eligible general election to

remove Measure L restrictions on the North Bowling Green for traditional multi-family residential development.

Current RFPs for City Property

Staff are currently engaged in two RFP's for residential housing on two City-owned properties: 1654 Fifth Street and 1281 University Avenue. Both of these lots are smaller than the 15,000 sq ft threshold recommended for affordable housing development.

1654 Fifth Street is part of the former Redevelopment Agency portfolio and is being guided by the State mandated Long Range Property Management Plan. Staff are in the process of selling the property, consistent with this plan. On June 11, 2019, the City Council authorized the City Manager to release an RFP to sell 1654 Fifth Street, a single family home acquired from the Berkeley Redevelopment Agency, to operate as homeless housing. The RFP was released on September 11, 2019 and proposals are due November 5, 2019. Staff will work with the Housing Advisory Commission to review the proposals and bring a recommendation to Council in early 2020.

1281 University Avenue was not initially considered as it was technically part of the Berkeley Way Mini-Park, though this portion of the parcel was never part of the park. Staff are facilitating the subdivision of the property to enable development. The site also hosted the Kenney Cottage (a historic structure of merit that has since been relocated).

On March 28, 2017, Council directed staff to release a RFP to develop at the City-owned site at 1281 University Avenue for low-income households below 30% AMI. The City received two responses to the RFP. On September 25, 2018, the City Council approved staff's recommendation to enter into a Memorandum of Understanding (MOU) with Resources for Community Development (RCD) to refine development plans for the site, but RCD ultimately withdrew from the process before executing an MOU due to difficulties in securing proper financing. Subsequently the only other applicant withdrew from consideration. The Housing Advisory Commission recommended that the City re-issue an RFP for residential development with at least 50% of the onsite units restricted to 50% AMI households, with consideration given to accommodations that serve unhoused or homeless households, including nontraditional living arrangements such as tiny homes and that Council consider interim use for the site for housing purposes. On September 10, 2019, the City Council directed the City Manager to issue a RFP for residential development with a requirement that 100% of the on-site units to be restricted to 80% AMI or below households with at least 10% at 50% AMI, with consideration given to accommodations that serve unhoused or homeless households, including nontraditional living arrangements such as tiny homes and that Council consider interim use for the site for housing purposes. Staff are currently working on a schedule for drafting and issuing the RFP in accordance with Council's direction.

Micro-Unit/Modular Development

Micro-units and modular developments are design and construction options for multifamily housing development. Staff toured a modular housing factory in Vallejo, Factory OS, visited a modular unit from a now defunct Texas company, and spoke with developers who have built modular projects in the past to learn more about this growing technology. Modular and panelized construction have the potential to reduce construction costs, an important factor in housing affordability, because of the potential to reduce waste and time. There are a relatively small number of vendors building modular housing, and many California affordable housing developers are exploring its use while also continuing to use conventional construction.

Staff believe that the minimum lot size for buildings using these options is the same as the minimum lot size used in the February 14, 2017 analysis (at least 15,000 sq ft). Projects using these options still require certain economies of scale to be financially feasible. Developers can opt to use these strategies in response to how the City's frames its priorities for a specific site, such as affordability targets or total units, if they find it will facilitate the most financially feasible project.

Part of this referral requested staff take affirmative steps to speed the permitting and approvals process. On October 3, 2017, the City Council approved expedited processing for all affordable housing projects in the City, consistent with this referral.

BACKGROUND

Staff's analysis of the City properties most likely to facilitate affordable housing projects considers the City's current zoning framework, land use regulations, and the ability to be competitive for outside funding. It also takes into account recommendations from affordable housing developers for best practices in financial feasibility.

Staff determined projects with at least 50 units are typically necessary to compete for tax credits and state funding, including the Affordable Housing and Sustainable Communities (AHSC) program, and facilitate financially feasible projects. Even considering a land donation, smaller projects, including micro unit/modular projects, will usually require larger City subsidies and potential ongoing investments to be sustainable.

The City of Oakland's housing plan recommends using sites that can accommodate 50+ units for affordable housing, and selling all others for revenue to support affordable housing.

ENVIRONMENTAL SUSTAINABILITY

Any site selected for development or temporary housing uses would require environmental analysis to assess its suitability for development, and identify

contaminants or issues needing remediation. These sites would primarily support infill development which, generally, is noted to support greenhouse gas reductions.

POSSIBLE FUTURE ACTION

The Council is currently engaging BART and the public around the City's priorities for North Berkeley BART and Ashby BART to inform possible future actions for the respective sites. A feasibility analysis for the West Berkeley Service Center, which will be requested in an upcoming Council item, will be needed to inform development scenarios for that site. A ballot measure to provide a Measure L exemption for the North Bowling Green would be needed to facilitate multi-family housing development. Legal analysis of Measure L's impact on the Santa Fe ROW is recommended prior to any development.

The disposition of City-owned property must follow the State Surplus Land Act (AB 2135), which prioritizes land for affordable housing development. If the City does not receive affordable housing proposals or the proposals received are not feasible, the City has the option to sell the land. Proceeds from sales could be directed to the Housing Trust Fund to support the City's affordable housing priorities.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Local affordable housing programs will likely require financial support from the City's Housing Trust Fund program and other local sources. Financial support can be provided in the form of land donation.

If any sites are not feasible for affordable housing development, the City can opt to sell the land and use the proceeds for the Housing Trust Fund program to support affordable housing development at other sites throughout the city.

CONTACT PERSON

Mike Uberti, Community Development Project Coordinator, HHCS, (510) 981-5114

Attachments:

- 1: Original Referral Report from November 28, 2017
- 2: February 14, 2017 Council Report

**City of Berkeley Affordable Housing Action Plan Priorities
Referral Priorities Adopted by City Council 11/28/17**

This list was prepared by the Department of Health, Housing and Community Services on 11/30/2017. It incorporates changes to a draft list that were made by Council during its meeting, as reflected in the Annotated Agenda, to represent the final priorities adopted.

High Priority

1. Develop a Small Sites Program to assist non-profits in acquiring multi-unit properties of 25 units or less. Consider giving priority to the creation of limited and non-equity cooperatives affiliated with a democratic community land trust. Consider master leasing as a mechanism for managing distinct, smaller properties.
2. Develop an ordinance modeled after Washington D.C.'s Tenant Opportunity to Purchase Act (TOPA) that offers existing tenants in multi-unit properties of three units or more the first right of refusal when property owners place rental property on the sale market, which can be transferred to a qualifying affordable housing provider.
3. A) Draft an ordinance creating a pilot Density Bonus policy for the Telegraph Commercial District to grant additional density for projects in the Telegraph area which pay Affordable Housing Fees in lieu of units on-site. B) Study the creation of a new City Density Bonus plan to allow developers of multi-family housing to add up to 15% more density in exchange for fees only.
4. Examine and eliminate barriers to developing student housing and senior housing.
5. Create specific per acre density standards, including standards for projects that include density bonus units.
6. Develop enforcement tools for Short-Term Rental Ordinance and Section 8 Non-Discrimination Ordinance (BMC Chapter 13.31, "Discrimination based on source of income prohibited"). Request that the City Manager direct staff to draft a fine schedule for violations of the short-term rental ordinance for multi-unit properties with multiple units used as STRs that are out of compliance with the host ordinance, including fines for when non-owner/tenant occupied dwelling units are made available for short-term rentals (from June 9, 2015 STR referral).
7. Refer to the City Manager and Planning Commission, and/or Housing Advisory Commission an ordinance to clarify existing preferences in allocating City affordable housing units to Berkeley residents living within 1/2 mile of any new development and tenants evicted under the Ellis Act, expand the second category of preference for eligible tenants displaced under the Ellis Act to include certain tenants displaced through an Owner Move-In or (Measure Y) eviction, and other forms of displacement as defined by Council.

**City of Berkeley Affordable Housing Action Plan Priorities
Referral Priorities Adopted by City Council 11/28/17**

8. Increase commercial linkage fee by California Construction Cost Index CCCI.
9. Identify Parcels of City owned land appropriate for siting assisted-living modular micro-unit buildings; take affirmative steps to speed the permitting and approvals process; obtain zoning approval and a building permit and approvals process for the creation of below market housing; identify a housing non-profit to be responsible for managing and operating the building; and establish criteria for selecting individuals and determining eligibility.
10. Utilize list of city properties developed by city staff and further examine opportunities for placing affordable housing on these sites.
11. Investigate the feasibility of developing workforce housing, in conjunction with Berkeley Unified School District, for teachers and other school district employees. The investigation should include research into what other California jurisdictions (such as San Francisco, Oakland, Santa Clara, and San Mateo County) are considering as part of their pursuit of School District workforce housing.
12. a) Streamline the Affordable Housing Permitting process for Projects with majority of Affordable Housing (50% affordable units or more, Worthington referral 1/19/16); b) Remove Structural barriers to Affordable Housing (Green Affordable Housing Package Policy #2, Droste); c) waive or reduce permit fees for affordable housing projects (Hahn), including previously adopted streamlining measures from 2017.
13. Examine and eliminate barriers to building and renting Accessory Dwelling Units.
14. Develop Measure U1 Priorities and Implementation Criteria. Include consideration of ability to leverage funds and placing a measure on the November 2018 ballot to allow possible bonding against revenues.
15. Establish a City maintained online resource that would provide a brief overview of the history and purpose of Below Market Rate (BMR) units, a current list of all buildings that contain BMR units and the characteristics of the units, the percent of median income qualification levels for the units, the HUD published income guidelines for percentage of median and family size, the property owner, rental agent, and/or management company contact information, and other relevant information that would be helpful to potential renters of BMR units. The City shall update the information as more units become available, and quarterly, to ensure that information is current.

Medium Priority

16. Impose fees when multifamily properties are destroyed due to fault of property owner (Demolition ordinance, RHSP, Relocation fees, fines).

**City of Berkeley Affordable Housing Action Plan Priorities
Referral Priorities Adopted by City Council 11/28/17**

17. Green Affordable Housing Package policy #1: Prioritize housing over parking in new developments. Reduce parking in R-4.
18. Amend Zoning code to allow housing and other non-commercial uses on the ground floor.
19. To encourage landlords to accept Section 8 and Shelter + Care vouchers study a program that is intended to encourage rehabilitation of substandard units that could be leased to recipients of Section 8 and Shelter + Care vouchers. Possible assistance that the City could provide including: creating a list of qualified, efficient, and affordable contractors vetted by the City, and a discount or waiver of permit fees, to support bringing their unit(s) to code.
20. Collaborate with Berkeley Housing Authority Board to invest capital funds from sale of the public housing for more affordable housing (Longer term referral).
21. To encourage landlords to accept Section 8 and Shelter + Care vouchers: identify organizations who can support financial literacy and management for Section 8 tenants, including establishing bank accounts with direct deposit to Landlords.
22. Establish Office of Anti-Displacement, and hire Anti-Displacement Advocate (non-city funded position).
23. Provide housing counseling and legal services for Berkeley's low-income, elderly or disabled distressed homeowners.




Office of the City Manager

INFORMATION CALENDAR

February 14, 2017

To: Honorable Mayor and Members of the City Council

From:  Dee Williams-Ridley, City Manager

Submitted by: Paul Buddenhagen, Director, Health, Housing and Community Services

Subject: Referral Response: Analysis of City-Owned Property for Potential for Housing Development

SUMMARY

On April 5, 2016 City Council requested an inventory of City-owned properties in order to evaluate their potential for affordable housing development. In the past, the City has sold (for example, for Oxford Plaza and Harper Crossing) and leased (in the case of William Byron Rumford Senior Plaza) City-owned property to support affordable housing.

The City owns 119 properties scattered throughout Berkeley. (In many cases, these properties are made up of multiple legal parcels.) Staff reviewed the inventory and assessed each site's development potential, based on criteria prioritizing sites that are mostly likely to accommodate a multifamily rental project and most competitive for affordable housing funding. HHCS staff reviewed the sites' zoning designation, square footage, current use, and whether or not properties were protected as parks or open space under Measure L, the Berkeley Public Parks and Open Space Preservation Ordinance. Six properties were identified citywide that met the basic criteria. One is the Berkeley Way parking lot, currently the subject of an agreement with BRIDGE Housing related to its development as affordable housing. The other five all had other significant challenges to development. All would require more review before taking any further action.

Staff did not review properties for the potential to sell. Oakland's housing plan, Oakland at Home, recommended selling City-owned properties not suitable for affordable housing development and placing 30% of the proceeds in a housing trust fund.

CURRENT SITUATION AND ITS EFFECTS

This report responds to a referral that originally appeared on the April 5, 2016 Council agenda and was sponsored by Councilmember Wengraf.

For this project, HHCS staff started with a detailed list of City-owned parcels that had been compiled by the Public Works Department from multiple sources, and updated it with information from the Berkeley Municipal Code as well as internal records. The

complete list is attached (see Attachment 3). It is the most comprehensive list that has been compiled to date.

Initial Assessment: Selected Properties

HHCS staff identified six properties that met basic criteria for housing development suitability and grouped them in three categories, based on the criteria briefly described above, and described in depth in the Background section of this report. The following describes the six properties which best met the criteria identified. None of these sites were identified as housing opportunity sites in the Housing Element, primarily because of existing City uses and zoning constraints. The City already has an agreement with BRIDGE Housing for the development of Berkeley Way, and the other five have significant challenges to development. These sites are also listed in Attachment 1.

Group 1. Two properties met all basic criteria. They are: 1) located within zones allowing multifamily development; 2) larger than 15,000 square feet; 3) not protected under Measure L; and 4) have no existing structures.

- **Berkeley Way Parking Lot (2012 Berkeley Way):**
The City and BRIDGE Housing have a Disposition and Development Agreement for a project on this site that will incorporate affordable housing, permanent supportive housing, transitional housing, homeless services, and replacement public parking. On September 27, 2016, City Council awarded \$835,897 in Housing Trust Funds to support additional predevelopment activities, including architectural work, environmental studies, and planning fees.
- **Elmwood Parking Lot (2642 Russell Street)**
Five City-owned parcels could be merged to create a 27,000 square foot lot. The parcels currently form a narrow parking lot situated between a row of shops facing College Avenue, and a residential neighborhood composed primarily of 1-2 story single family homes and small multifamily buildings. This parking lot supports the Elmwood commercial area. At a minimum, this site would need to be rezoned to support multifamily housing development at a large enough scale to make affordable housing feasible.

While the square footage of the parcel initially seemed promising, several of the adjacent residential buildings are situated on the lot lines, and the businesses use the City's property for trash pickup and delivery access. Setbacks would likely be required on one if not both sides. In addition, the lot's irregular shape and proximity to existing commercial and residential uses would constrain its footprint and height to the point at which an affordable development may be infeasible, particularly with replacement parking for the commercial district. Combined, these limitations are likely to make affordable housing development infeasible at this time.

Group 2. Two additional properties are 1) located within zones allowing multifamily development; 2) larger than 15,000 square feet; and 3) not protected under Measure L; but they have active City uses. A third property, Center Street Garage, also met these criteria but was not considered because it is currently under construction.

- **West Berkeley Service Center (1900 Sixth Street).** The West Berkeley Service Center is located on a parcel that is 31,000 square feet, in an area that is a mix of commercial, industrial, and residential. Some of the parking spots are currently being used for City vehicles. The neighboring buildings are 1-2 stories tall, but 4-5 story buildings are located one block away along University Avenue. Though the existing zoning (MUR - Mixed Use Residential) permits multifamily development, changing the zoning could help maximize the site's development potential. Demolishing and replacing the service center, currently used for senior social services, the Black Infant Health Program, Public Health Nurses and the Meals on Wheels program, would add significantly to the cost of housing development at the site.
- **Telegraph-Channing Garage and Shops (2425 Channing Way)**
This six-story parking garage also includes retail spaces on the ground floor. Built in the late 1960s, the garage provides parking for the stores and restaurants along Telegraph Avenue near the UC Berkeley campus. Conceivably, the site could be redeveloped to include replacement commercial spaces and parking with housing over it.

However, since the structure is a key resource for local businesses, the costs of temporary commercial relocation during construction, and the costs of replacing parking and commercial spaces would make development very costly and could be infeasible in combination with affordable housing. In order to also add new residential units, the replacement structure would likely need to be several stories taller than the current structure, which is already among the tallest buildings in the neighborhood. These issues present significant challenges to using the site for affordable housing in the foreseeable future.

Group 3. These properties are both larger than 15,000 square feet and vacant, but would require zoning changes before multifamily housing could be constructed and have constraints from Measure L. The North Bowling Green is protected from development under Measure L, and would require a vote of the people to change its designation and make it legal to develop. The Santa Fe Right of Way requires further analysis to determine Measure L's applicability. Unlike other parcels protected under Measure L, both of these properties are fenced off from the public and not in active use.

- **North Bowling Green (1324 Allston Way)**
Within the Corp Yard, along Allston Way, the North Bowling Green is a vacant lot of approximately 21,000 square feet that is not actively used by the City. The site

was used as a lawn bowling green starting in 1929, but has not been maintained as such since 2008. This site, along with the South Bowling Green and clubhouse, is leased to the Berkeley Lawn Bowling Club, though Parks is negotiating a new lease that will not include the North Bowling Green. The site contains elevated levels of pesticides and metals, and the contaminated soil would need to be excavated or encapsulated prior to active use or development, which does not rule out affordable housing development but would add to the cost. The entire Corp Yard site is within an R-2 zone, so the North Bowling Green would need to be split from the Corp Yard parcel and rezoned to allow for multifamily housing. The 150-unit Strawberry Creek Lodge (affordable senior housing) is located within a block of the vacant site, though the immediately adjacent residential units are single-family homes.

- **Santa Fe Right of Way**

The City owns six vacant, non-contiguous parcels that were part of the right of way for the former Santa Fe Railroad. The lots cut through the middle of blocks at a diagonal, and are separated by several streets: Ward, Derby, Carleton, Parker and Blake. Collectively, the parcels comprise approximately 75,000 square feet of undeveloped land. The parcels are zoned R-1 and R-2, which do not permit multifamily construction. The neighborhood is primarily single family homes with a few 2-story multifamily buildings. Although it could be possible to combine these sites into a single scattered site project, it would be difficult to achieve the density required to make a scattered site project large enough to be competitive for tax credit and other affordable housing funding.

BACKGROUND

The initial data collection resulted in a list of 229 individual parcels, which was reduced to 119 after staff analysis. Several Berkeley Housing Authority and BUSD properties associated with Berkeley 75, former public housing, were removed from consideration, and adjacent parcels were combined into single entries to better assess their development potential. Staff then researched each property for specific data, including zoning and property square footage.

From the list of 119 parcels, some City-owned properties were excluded from further analysis because they were not available or clearly not suitable for development as housing. Sites not considered for future housing development included City offices at Center and Milvia, street segments, sidewalks, fire and police facilities, and sites leased to existing affordable housing projects.

The City owns approximately one acre of air rights to develop over the western parking lot at Ashby BART, which is zoned C-SA. The site was not included in this report because it is being analyzed as part of the Adeline Corridor planning process. The City does not own air rights at North Berkeley BART.

Methodology and Criteria

The remaining 92 properties were then ranked based on a set of criteria established to identify the sites with the greatest development potential (and fewest development barriers). The following criteria were used:

Zoning

Given the City of Berkeley's general plan and municipal code, multi-family housing can only be built within certain zones¹. Properties outside these zones were ranked lower since they would require zoning changes in order to be suitable for higher density development.

Size of parcel/ability to support 50+ units of housing

Staff prioritized sites that can accommodate 50+ units of housing for affordable housing development. In this analysis, we looked at sites of 15,000 square feet as having the greatest potential, and gave consideration to sites over 10,000 square feet. Sites smaller than this are unsuitable for affordable multifamily housing development because:

- Even with greatly reduced or donated land, affordable housing development requires public funding. There are limited funding sources for affordable housing, and most multifamily housing developers pursue Low Income Housing Tax Credits as a significant source. Tax credit funding is highly competitive, and non-tax credit projects can be difficult to finance. California intends to start incentivizing larger developments by awarding higher points to projects with 50 or more units. Staff estimated that sites under 15,000 square feet would not allow for the density required to meet the 50-unit minimum for a competitive project. Sites between 10,000 and 15,000 were included but ranked lower, as they could be combined for a scattered site project.
- The long length of time required for obtaining financing for Harper Crossing (41 units) and Grayson Street Apartments (23 units) are probably at least partially related to their small size. Smaller projects are generally less competitive for housing funds because of their higher per unit costs and, in the case of the Affordable Housing and Sustainable Communities program, due to their smaller impact on reducing greenhouse gas emissions.
- Similarly, Oakland's housing plan recommended using sites that can accommodate 50+ units for affordable housing, and selling the others for revenue to support housing.
- One local affordable housing developer, when asked about minimum size, said "we've found that in higher-density areas (like Berkeley) sites should be at least 15,000 sq ft. We will look at smaller sites if there are special circumstances but as a rule of thumb it is hard to create a feasible multifamily rental project on a site

¹ Zones that allow multifamily housing are R-3, R-4, R-5, C-1, C-N, C-E, C-NS, C-SA, C-T, C-SO, C-W, C-DMU, and MU-R

under that size.” Another emphasized the need to look at the development capacity, citing a project on 13,000 square foot plot with 62 one-bedrooms, feasible only because it has 6 stories (typically not possible in Berkeley).

Parks and open spaces, restricted by Measure L

In 1986, Berkeley residents passed Measure L, the Berkeley Public Parks and Open Space Preservation Ordinance, ensuring that all existing City open space would be preserved (not developed). Measure L requires a vote of the people to use or to develop a public open space or park for any purpose other than public parks or open space, unless a State of Emergency has been declared. In this context, the Homeless Shelter Crisis declared by City Council in 2016 does not qualify as a State of Emergency, and would not supersede Measure L. Staff consulted with Parks to confirm that 23 properties larger than 10,000 square feet are restricted under Measure L. Staff did not ask Parks to review the following properties in hillside zones due to topographical constraints on development: Grotto Rock Park, Indian Rock Park, Remillard Park, Cragmont Park, and Great Stone Face Park.

Current Use

Berkeley is largely built out, and most City-owned properties have buildings and active uses. Staff prioritized properties that do not have any structures, followed by properties that are active City facilities, and finally properties leased to non-City entities. Staff did not review the 21 leases noted in the property inventory, and did not assess the development potential of the sites once the leases expire, as that was beyond the scope of the current analysis.

Properties Less Suitable for Development

The remaining 113 properties were considered less suitable for development because they did not meet enough of the priority criteria. More than half of the remaining properties were eliminated because they fell below the threshold of 10,000 square feet (49 properties) or because they are actively used open space or parks and are protected under Measure L (22 properties, excluding the Santa Fe ROW). Other properties were eliminated because of their current use, including a number of City facilities on lots larger than 15,000 square feet. Attachment 2 includes a list of every City-owned property over 15,000 square feet in area.

ENVIRONMENTAL SUSTAINABILITY

Any site would require environmental analysis to assess its suitability for development, and identify contaminants or issues needing remediation.

POSSIBLE FUTURE ACTION

Staff will continue to work with BRIDGE Housing and the Berkeley Food and Housing Project on the redevelopment of the Berkeley Way Parking Lot. Staff plan to report back to City Council with a recommendation on the disposition of two former

Referral Response: Analysis of City-Owned Property
for Potential for Housing Development

INFORMATION CALENDAR
February 14, 2017

Redevelopment Agency properties the City owns on 5th Street. Staff welcome any additional information that could further update the property information shown in Attachment 3.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Fiscal impacts of future action will depend on the course of action identified. Developing new affordable housing on City-owned land will require additional City funding contributions.


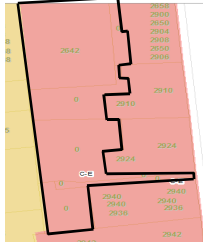
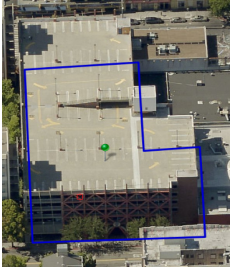



CONTACT PERSON

Jenny Wyant, Community Development Project Coordinator, HHCS, 510-981-5228

Attachments:

1. Selected Property List
2. City Properties Larger Than 15,000 SF
3. Inventory of City Properties
4. Original Referral Report from April 5, 2016

Selected Property List

Priority Group	Name (Address)	Zoning	Lot SF	Current Use	Image	Bldg SF
1	Berkeley Way Parking Lot (2012 Berkeley Way)	C-DMU Buffer	40,945	Parking Lot		
1	Elmwood Parking Lot (2642 Russell, 5 parcels)	C-E	27,374	Parking Lot		
2	Telegraph-Channing Garage and Shops (2425 Channing Way)	C-T	32,685	Parking Garage		189,867
2	West Berkeley Service Center (1900 Sixth St)	MUR	31,020	City Facility		
3	North Bowling Green (portion of City Corp Yard, 1324 Allston)	R-2	21,000	City Facility		46,604
3	Santa Fe Right of Way (Ward, Derby, Carleton, and Blake, 6 parcels)	R-1/R-2	75,086	ROW		

**Attachment 2:
All City-Owned Properties Larger Than 15,000 SF**

City Facilities

- Berkeley Fire Station Number 5 (2680 Shattuck Ave)
- Berkeley Fire Station Number 6 (999 Cedar St)
- Berkeley Fire Warehouse (1011 Folger Ave)
- Berkeley Police Department / Old City Hall (2100 / 2134 MLK Jr. Way)
- Berkeley Public Library – Central Branch (2090 Kittredge St)
- Berkeley Public Library-North Branch (1170 The Alameda)
- Berkeley Transfer Station (1201 Second St)
- City Corp Yard (1326 Allston Way)
- City Office Building (1947 Center St.)
- Civic Center Building (2180 Milvia St)
- Fire Department Station No.2 (2029 Berkeley Way)
- Firehouse Number 7 (3000 Shasta Ave)
- North Berkeley Senior Center (1901 Hearst Ave)
- North Bowling Green (part of City Corp Yard, 1324 Allston)
- South Berkeley Senior Center (2939 Ellis St)
- West Berkeley Service Center (1900 Sixth St)

Existing Affordable Housing

- Oceanview Garden Apartments (1816 Sixth St)
- University Avenue Cooperative Homes Apartments (Addison at Sacramento)
- William Byron Rumford Senior Plaza (3012 Sacramento St)

Leased Properties

- Berkeley Black Repertory Group Theater (3201 Adeline St)
- Berkeley Recycling Center (669 Gilman St)
- Nia House Learning Center (2234 Ninth St)
- Veterans Memorial Building (1931 Center St)
- Women's Daytime Drop-In Center (2218 Acton St)

Parking Lots/Garages

- Berkeley Way Parking Lot (2012 Berkeley Way)
- Center Street Garage (2025 Center St)
- Elmwood Parking Lot (2642 Russell)
- Oxford Plaza Parking Garage (2165 Kittredge)
- Telegraph-Channing Garage and Shops (2425 Channing Way)

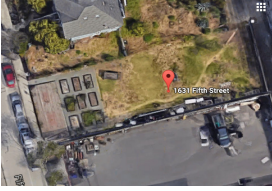


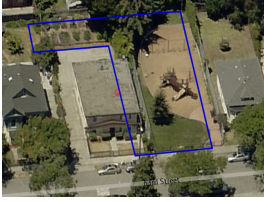


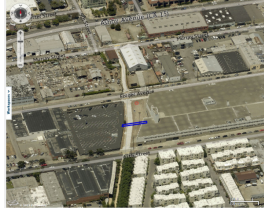
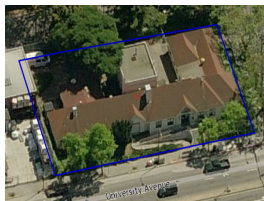
Parks and Open Space


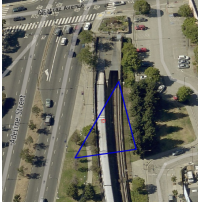





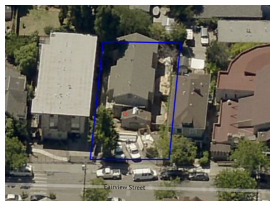
- Aquatic Park* (80 Bolivar Dr)
- Berkeley Way Mini Park (1294 Berkeley Way)
- Cedar Rose Park* (1300 Rose St)
- Codornices Park and Berkeley Rose Garden (1201 Euclid Ave)
- Community Garden (1308 Bancroft Way)
- Cragmont Rock Park (960 Regal Rd)
- Dorothy Bolte Park (540 Spruce St)
- George Florence Park (2121 Tenth St)
- Glendale- La Loma Park (1310 La Loma Ave)
- Great Stoneface park (1930 Thousand Oaks Blvd)
- Greg Brown Park (1907 Harmon St)
- Grotto Rock Park (879 Santa Barbara Rd)
- Grove Park (1730 Oregon St)
- Harrison Park (1100 Fourth St)
- Hillside Open Space on Euclid Ave
- Indian Rock Park (950 Indian Rock Ave)
- James Kenney Park* (1720 Eighth St)
- John Hinkel Park (41 Somerset Pl)
- Live Oak Park* (1301 Shattuck Ave)
- Marina*/Cesar Chavez Park (11 Spinnaker Way)
- MLK Jr. Civic Center Park (2151 Martin Luther King Jr Way)
- Ohlone Park (1701 Hearst Ave)
- Remillard Park (80 Poppy Ln)
- San Pablo Park (2800 Park St)
- Strawberry Creek Park (1260 Allston Way)
- Terrace View Park (1421 Queens Rd)
- Virginia-McGee Totland (1644 Virginia St)
- Willard Park (2730 Hillegass Ave)







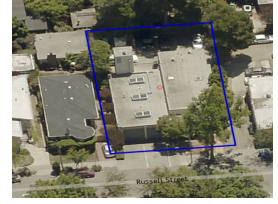

**A portion of the property is leased to a local organization.*





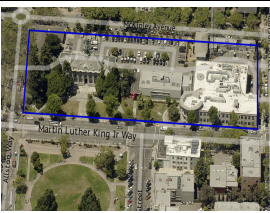



Other





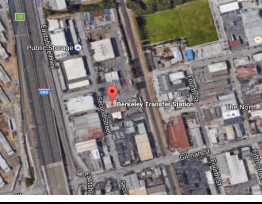

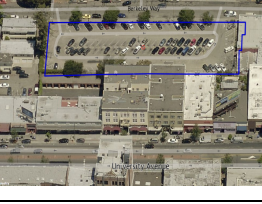

- Santa Fe Right of Way (approx. 1400 Carleton)
- Sidewalk and Road (Ashby between Harper and MLK Jr. Way)
- Roundabout (Parkside Dr)
- Sojourner Truth Court (former Santa Fe ROW)
- West St (between Lincoln and Delaware)









Name (Address)	Zoning	Lot SF	Current Use	Notes	Image	APN	Bldg SF	Leased?	Tenant	End Lease Term
1631 5th Street	MUR	5,525	Other	Former RDA property. Vacant lot.		057 211701100				
1654 5th Street	MULI/ MUR	5,300	Other	Former RDA property. Vacant, single-family home.		057 211602300				
1817-1819 Fourth Street	C-W	12,500	Other	2 parcels. Former RDA properties. Leased for retail.		057 209901400 057 209901500	10,070			
63rd Street Mini Park (1615 63rd St)	R-2A	8,100	Park			052 152201100				
Abandoned Rail ROW (1018 Ashby Ave)	MULI	11,450	ROW	2 parcels.		053 163300300 053 163300400				
Abandoned Rail ROW (between Heinz and Ashby, at Ninth)	MULI/ C- W	11,855	ROW	Potential extension of Emeryville Greenway?		053 165200300				
Abandoned Rail ROW (near 920 Flogr)	MULI	743	ROW	At Berkeley-Emeryville City Line along Greenway.		052 151201002				
Ann Chandler Public Health Center (830 University Ave)	C-W	14,700	City Facility			056 196600100				






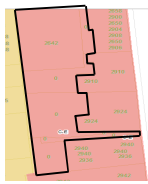


Name (Address)	Zoning	Lot SF	Current Use	Notes	Image	APN	Bldg SF	Leased?	Tenant	End Lease Term
Aquatic Park (80 Bolivar Dr)	Along MM/ MULI/C- DMU Buffer/R- 2A/No zoning available	739,878	Park	12 parcels		060 251300101 054 177100100 060 250700101 060 250700102 054 175200100 054 175200201 054 177200100 054 177100200 060 252700101 056 194900601 056 194800300		Yes, a portion	Bay Area Outreach Recreation Program; Waterside Workshop	7/31/2021
BART ROW (Adeline at Alcatraz)	Zoning not found, in between C-SA/ R- 2A	5,553	ROW			052 153200600				
BART ROW (Gilman to Neilson)	C-N/ R- 1A/ R-2	7,350	Other			060 239107502				
Bateman Mall (3027 Colby St)	R-2A/ R-3	9,501	Park			052 157405906				
Becky Temko Tot Park (2424 Roosevelt Ave)	R-2	6,760	Park			055 190701100				
Berkeley 75 (1521 Alcatraz Ave, A,B,C,D)	R-3	7,150	Leased	scattered site affordable housing development		052 152000800		Yes	Berkeley 75 Housing Partners LP - c/o Related California	2/1/2084
Berkeley 75 (1605 Stuart St C)	R-2	6,750	Leased	scattered site affordable housing development		054 173001400		Yes	Berkeley 75 Housing Partners LP	5/12/2083
Berkeley 75 (1812 A,B,C Fairview St)	R-2A	6,500	Leased	scattered site affordable housing development		052 153001800		Yes	Berkeley 75 Housing Partners LP	5/12/2083

Name (Address)	Zoning	Lot SF	Current Use	Notes	Image	APN	Bldg SF	Leased?	Tenant	End Lease Term
Berkeley 75 (2231, 2231A, 2231B, 2235 Eighth St)	R-1A	6,500	Leased	scattered site affordable housing development		056 197001507		Yes	Berkeley 75 Housing Partners LP	5/12/2083
Berkeley 75 (3016 Harper St A, B)	R-2A	4,893	Leased	scattered site affordable housing development		053 160200600		Yes	Berkeley 75 Housing Partners LP	5/12/2083
Berkeley Adult Day Health Center (1890 Alcatraz Ave)	C-SA	9,404	Other			052 152702401	4,425			
Berkeley Black Repertory Group Theater (3209 Adeline St)	C-SA	17,097	Leased	3 parcels		052 152902100 052 152902200 052 152902300	8,000	Yes	Black Repertory Group	5/30/2023
Berkeley Fire Station Number 1 (2442 Eighth St)	R-1A	10,260	City Facility			056 193901902	5,260			
Berkeley Fire Station Number 2 (2029 Berkeley Way)	C-DMU Buffer	23,977	City Facility			057 205100901	13,685			
Berkeley Fire Station Number 3 (2710 Russell St)	R-2	9,359	City Facility			052 156702601	5,100			
Berkeley Fire Station Number 4 (1900 Marin Ave)	R-1H/ R-1A	12,623	City Facility			061 257302600	5,442			

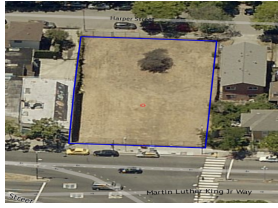
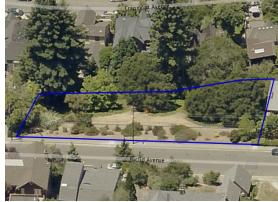


Name (Address)	Zoning	Lot SF	Current Use	Notes	Image	APN	Bldg SF	Leased?	Tenant	End Lease Term
Berkeley Fire Station Number 5 (2680 Shattuck Ave)	C-SA	17,300	City Facility			055 181900301	9,302			
Berkeley Fire Station Number 6 (999 Cedar St)	R-1A	26,000	City Facility			059 231201200	8,346			
Berkeley Fire Station Number 7 (3000 Shasta Ave)	R-1H	129,277	City Facility	from BMC. RealQuest Pro and City site indicate that EBMUD is owner of larger parcel, not City.		063 316001305 063 316003700				
Berkeley Fire Warehouse (1011 Folger Ave)	MULI	24,425	City Facility			053 163403000	8,021			
Berkeley Police Department / Old City Hall (2100 / 2134 MLK Jr. Way)	R-2	144,480	City Facility			057 201701601	122,783	Yes	Building Opportunities for Self Sufficiency (BOSS) - McKinley House; County of Alameda; Berkeley Unified School District	6/30/2013
Berkeley Public Library - Central Branch (2090 Kittredge St)	C-DMU Corridor	25,141	City Facility			057 202801701	75,000			
Berkeley Public Library - Claremont Branch (2940 Benvenue Ave)	R-2A	11,652	City Facility	2 parcels		052 157301600, 052 157301700	7,434			
Berkeley Public Library (2031 Bancroft Way)	C-DMV Buffer/ Corridor	14,133	City Facility			057 202800500	30,000			




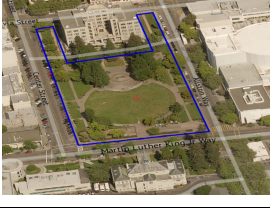

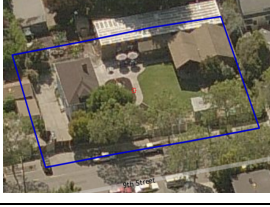


Name (Address)	Zoning	Lot SF	Current Use	Notes	Image	APN	Bldg SF	Leased?	Tenant	End Lease Term
Berkeley Public Library-North Branch (1170 The Alameda)	R-1	17,668	City Facility			061 260503500	10,591			
Berkeley Public Library-South Branch (1901 Russell St)	R-2A	13,444	City Facility			053 167901601	5,250			
Berkeley Public Library-West Branch (1125 University Ave)	C-1	12,000	City Facility			057 208501100	9,400			
Berkeley Recycling Center (669 Gilman St)	M	48,150	Leased			060 236200110	22,595	Yes	Community Conservation Center Inc	8/31/1991
Berkeley Transfer Station (1201 Second St)	M	276,531	City Facility	5 parcels		060 238200102 060 238200303 060 236200109 060 236200111 060 236200108	51,615			
Berkeley Way Mini Park (1294 Berkeley Way)	R-2A/ C-1	18,733	Park	BMC		057 208102300	960			
Berkeley Way Parking Lot (2012 Berkeley Way)	C-DMU Buffer	40,945	Parking Lot			057 205302201				
BOSS: Harrison House/ Sankofa house (711 / 701 Harrison)	MULI	6,486	Leased	HCS Leased		060 238300102		Yes	Building Opportunities for Self Sufficiency (BOSS) - Harrison House	10/31/2013









Name (Address)	Zoning	Lot SF	Current Use	Notes	Image	APN	Bldg SF	Leased?	Tenant	End Lease Term
Cedar Rose Park (1300 Rose St)	R-2	175,727	Park	9 parcels		060 241605800 060 241607700 059 228601900 059 228600203 059 229302001 060 242309600 059 228600103 058 213801500 059 228600104		Yes, a portion	Ala Costa Center	No End Date
Center Street Garage (2025 Center St)	C-DMU Core	34,267	Parking Garage			057 202302003	175,500			
City Corp Yard (1326 Allston Way)	R-2	250,072	City Facility			056 199301501	46,604	Yes	Berkeley Lawn Bowling	12/31/2014
City of Berkeley Animal Shelter (1 Bolivar Dr)	C-W	8,874	Leased			060 252100201		Yes	New Cingular Wireless	No End Date
City Office Building (1947 Center St)	C-DMU Buffer	18,750	City Facility			057 202200600	116,142	Yes	International Computer Science Institute; Rising Sun Energy Center	4/30/2013
Civic Center Building (2180 Milvia St)	C-DMU Buffer	38,808	City Facility			057 202100100	77,145			
Codornices Park and Berkeley Rose Garden (1201 Euclid Ave)	R-1H	470,240	Park	4 parcels		060 246800101 060 246800102 060 246800103 060 246500900				
Colby St. (between Ashby and Webster)	Next to R-3	13,603	Other	BMC		052 157308706				







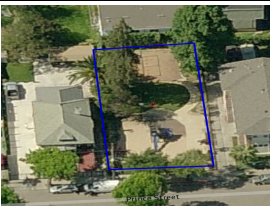

Name (Address)	Zoning	Lot SF	Current Use	Notes	Image	APN	Bldg SF	Leased?	Tenant	End Lease Term
Community Basketball Court	R-1	11,886	Open Space			058 213903108				
Community Garden (1308 Bancroft Way)	R-2	38,526	Open Space	former rail ROW		056 192203402				
Contra Costa Rock Park (869 Contra Costa Ave)	R-1H	7,456	Park			061 257605600				
Cragmont Rock Park (960 Regal Rd)	R-1H	136,458	Park	2 parcels		063 297500900 063 297501000				
Dorothy Bolte Park (540 Spruce St)	R-1H	50,516	Park			062 293902001 062 293902301				
Elmwood Parking Lot (2642 Russell St)	C-E	27,374	Parking Lot	6 parcels		052 156800300, 052 156800501, 052 156800601, 052 156800700, 052 156800801, 052 156800401				
Epehsian's Children's Center (1907 Harmon St)	R-2A	3,000	Leased			052 152901100		Yes	Epehsian's Children's Center	No End Date
Fountain Walk (at Hopkins and El Dorado)	C-N (H)/ R-1H	9,678	Other			061 257100200				



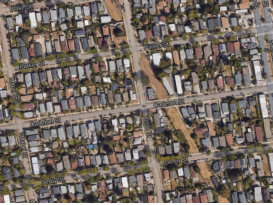


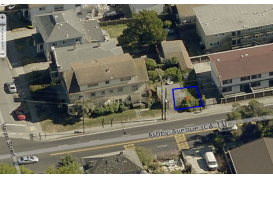


Name (Address)	Zoning	Lot SF	Current Use	Notes	Image	APN	Bldg SF	Leased?	Tenant	End Lease Term
Frederick Mini Park (780 Arlington Ave)	R-1H	9,925	Park			062 292002300				
George Florence Park (2121 Tenth St)	R-1A	21,600	Park			056 197701900				
Glendale- La Loma Park (1310 La Loma Ave)	R-1H	129,092	Park	5 parcels		060 246904300 060 246905500 060 246904200 060 246906101 064 423201100				
Great Stone Face park (1930 Thousand Oaks Blvd)	R-1H	30,471	Park			062 292000100				
Greg Brown Park (1907 Harmon St)	R-2A	20,046	Park	2 parcels		052 152902601 052 152901002				
Grizzly Peak Park (50 Whitaker Ave)	R-1H	10,692	Park	BMC		063 298304900				
Grotto Rock Park (879 Santa Barbara Rd)	R-1H	16,867	Park			061 258204500				
Grove Park (1730 Oregon St)	R-2/R-2A	121,794	Park	3 parcels		053 167600101 053 167800101 053 167800102				




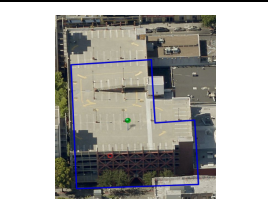

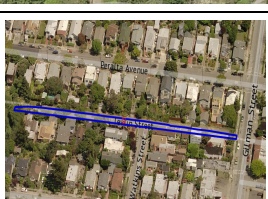

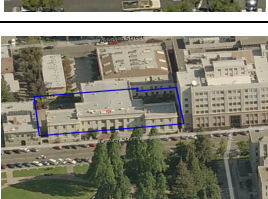
Name (Address)	Zoning	Lot SF	Current Use	Notes	Image	APN	Bldg SF	Leased?	Tenant	End Lease Term
Harper Crossing (3132 MLK Jr. Way)	R-2A/ C-SA	14,585	Other	Satellite Affordable Housing Associates development		052 155101302				
Harrison Park (1100 Fourth St)	MULI	280,341	Park	4 parcels		060 238300102 060 238300200 060 238300300 060 238300400	9,644			
Haskell-Mabel Mini Park (1255 Haskell St)	R-2A	2,658	Park			053 162600601				
Hillside Open Space on Euclid Ave (near 660 Euclid Ave)	R-1H	21,041	Open Space	steep slope. Near 660 Euclid.		063 295601701				
Indian Rock Park (950 Indian Rock Ave)	R-1H	39,714	Park	2 parcels		061 257802100 061 258401600				
James Kenney Park (1720 Eighth St)	R-1A	159,948	Leased			058 212200100		Yes, a portion	BAHIA	5/15/2012
John Hinkel Park (41 Somerset Ave)	R-1H	180,127	Park	3 parcels		061 257900200 061 257900100 061 259803300				
Live Oak Park (1301 Shattuck Ave)	R-2H/ R-2AH	224,036	Leased			060 245503805 060 246601500		Yes	Theater First INC	1/31/2023




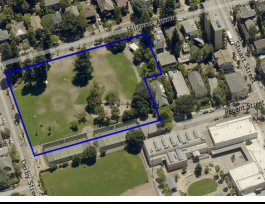
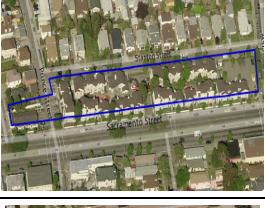


Name (Address)	Zoning	Lot SF	Current Use	Notes	Image	APN	Bldg SF	Leased?	Tenant	End Lease Term
Lower Codornices Path (at Sixth St)	MULI	2,900	Park			060 238501000				
Marina/Cesar Chavez Park (11 Spinnaker Way)	No Zoning available	191,060,069	Leased			060 254500100 060 254000201 060 252800701 060 253400103	2,529	Yes, a portion	Berkeley yacht Club; Berkeley marine Center; Berkeley Company, Highline Kites; Cal Sailing Club; Cal adventures; Skates Restaurant; Hs Lordships; Bait Shop-oung Kim; Doubletree	12/31/2058
Mental Health Adult Clinic (2640 MLK Jr Way)	R-2A	12,314	City Facility			054 181100300	11,194			
MLK Jr. Civic Center Park (2151 Martin Luther King Jr Way)	R-3/ C-DMU Buffer	121,548	Park			057 202100200	-			
Mortar Rock Park (901 Indian Rock Ave)	X? Next to R-1H	5,174	Park			061 258305100				
Nia House Learning Center (2234 Ninth St)	R-1A	19,855	Leased			056 197000801	7,760	Yes	Nia House Learning Center	8/1/2053
North Berkeley Senior Center (1901 Hearst Ave)	R-2A	32,803	City Facility			057 205701202				
North Bowling Green (portion of City Corp Yard, 1324 Allston)	R-2	21,000	City Facility			056 199301501	46,604			

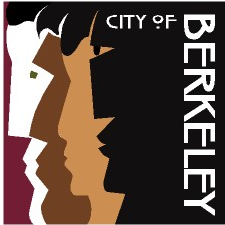
Name (Address)	Zoning	Lot SF	Current Use	Notes	Image	APN	Bldg SF	Leased?	Tenant	End Lease Term
Oak Park (35 Domingo Ave)	R-1H	9,894	Park			064 424200100				
Oak Ridge Steps (between El Camino Real and Oak Ridge)	R-1H	1,408	ROW			064 424301400				
Oceanview Garden Apartments (1816 Sixth St)	MUR	115,476	Other	Oceanview Garden Apartments. Former RDA property. 2 non-contiguous parcels.		057 209801202 058 211801007				
Ohlone Park (1701 Hearst Ave)	R-2/ R-2A	300,981	Park	10 Parcels		057 206702801 057 206600601 057 206503100 057 206400702 057 205601501 057 206700700 058 215002001 060 241403102 060 241707602 060 241101802				
Open Space (1100 Kains Ave)	R-2, adjacent to C-W	5,200	Other	Only the open space is in Berkeley. Buildings are in Albany.		060 241000200				
Open Space (Santa Fe Ave at Albany border)	R-2	1,925	Open Space	adjacent to BART ROW		060 240906902				
Open Space on California (entrance to 1600 Addison condos)	R-2	3,322	Park			056 200500300				
Open Space (Hillcrest Rd)	R-1H	4,427	Other			064 424701600				

Name (Address)	Zoning	Lot SF	Current Use	Notes	Image	APN	Bldg SF	Leased?	Tenant	End Lease Term
Open Space (Sutter St at Eunice St)	R-1H	7,579	Open Space			061 256600600				
Open Space (Tamalpais Rd)	R-1H	1,760	Open Space			060 247303800				
Open Space (Twain Ave near Sterling Ave)	R-1H	3,271	Open Space			063 298400805				
Oxford Plaza Parking Garage (2165 Kittredge)	C-DMU Core	46,633	Parking Garage	2 parcels. City owns a portion of the site - parking garage. Parcel listed as 0 square feet.		057 211800100 057 211900100	46,302			
Parking Lot (Adeline and Alcatraz)	C-SA	5,831	Leased			052 152801504	-	Yes	Children's First Medical Group	No End Date
Presentation Park (2199 California st)	R-2	2,493	Park			056 200500200				
Prince Street Mini Park (1631 Prince St)	R-2A	6,750	Park			053 160601000				
Remillard Park (80 Poppy Ln)	R-1H	83,734	Park	3 parcels		063 297601201 063 297601100 063 297601203				

Name (Address)	Zoning	Lot SF	Current Use	Notes	Image	APN	Bldg SF	Leased?	Tenant	End Lease Term
Roundabout (Parkside Drive)	R-1H	16,767	Open Space			064 424404200				
San Pablo Park (2800 Park st)	R-1	518,647	Park			053 166500100				
Santa Fe Right of Way (approx. 1400 Carleton)	R-1/R-2	75,086	ROW	6 parcels		054 179302700 054 178303500 054 17830360 054 179402800 054 173502000 054 179002800				
Sidewalk and Road (Ashby between Harper and MLK Jr. Way)	R-2A/ C-SA	16,500	Other			053 160100402				
Sidewalk (Le Conte Ave at La Loma Ave)	R-2AH	2,957	Other			058 220400100				
Small Parcel (Ashby Ave, between Harper and Ellis)	R-2A	222	Other			053 160200401				
small plaza (Henry and Hearst)	R-2A	1,620	Other			057 205101602				
Sojourner Truth Court (former Santa Fe ROW)	R-3/ R-1/ C-SA	36,110	ROW	includes some open space		054 173702000				

Name (Address)	Zoning	Lot SF	Current Use	Notes	Image	APN	Bldg SF	Leased?	Tenant	End Lease Term
South Berkeley Senior Center (2939 Ellis St)	R-2A	21,690	City Facility	3 parcels		053 160302100 053 160302200 053 160302300				
Spiral gardens (2850 Sacramento St)	R-1/ C-SA	12,423	Leased			053 166903000		Yes	Spiral Gardens Community Garden	6/30/2008
Strawberry Creek Park (1260 Allston Way)	R-2/ R-2A	147,999	Park	3 parcels		056 199000700 056 199100200 056 199000403				
Telegraph-Channing Garage and Shops (2425 Channing Way)	C-T	32,685	Parking Garage			055 187900601	189,867			
Terrace View Park (1421 Queens Rd)	R-1H	39,724	Park			060 248504601				
Tevlin Street (north of Gilman)	R-1A	7,438	Other			060 241701900				
University Avenue Cooperative Homes Apartments (Addison at Sacramento)	R-4	50,842	Leased	Resources for Community Development affordable housing project		056 199600401 056 199602401 056 199601000 056 199600600 056 199600900 056 199600200 056 199602800 056 199600300		Yes	UACH, LP	11/15/2080
Veterans Memorial Building (1931 Center St)	C-DMU Buffer	24,819	Leased			057 202202000	33,254	Yes	Building Opportunities for Self-Sufficiency (BOSS); Dorothy Day House; Option Recovery Services; Berkeley Food and Housing Project; Berkeley place; American Legion Post 7; Disabled American Vets, The Ecology Center	Mo to mo

Name (Address)	Zoning	Lot SF	Current Use	Notes	Image	APN	Bldg SF	Leased?	Tenant	End Lease Term
Virginia-McGee Totland (1644 Virginia St)	R-2	16,248	Park			058 215700100				
West Berkeley Service Center (1900 Sixth St)	MUR	31,020	City Facility			057 209700201				
West St. (between Lincoln and Delaware)	In between R-2/ R-1	33,048	Other	BMC. 3 parcels		058 213602400 058 213701800 058 213501900				
Willard Park (2730 Hilleglass Ave)	R-2	111,000	Park			054 171102700				
William B Rumford Senior Plaza (3012 Sacramento St)	C-SA	76,666	Leased	Resources for Community Development affordable housing project		053 161401800	47,424		South Berkeley Cmty Housing Dev Corp - William Byron Rumford Sr. Plaza (Resources for Community Development)	8/26/2070
Women's Day Time Drop-in Center (2213 Byron St)	R-2	4,800	Leased			056 198403000	3,173	Yes	Women's Day Time Drop-in Center	12/24/2023
Women's Daytime Drop-In Center (2218 Acton St)	R-2	21,085	Leased	Adjacent to City Corp Yard		056 199300600	594	Yes	Women's Daytime Drop In Center	2/18/2018



Susan Wengraf
Councilmember District 6

CONSENT CALENDAR

April 5, 2016

To: Honorable Mayor and Members of the City Council
 From: Councilmember Susan Wengraf
 Subject: Analyzing All City-Owned Properties for Potential for Housing Development

RECOMMENDATION

Request that the City Manager explore the opportunity for the City of Berkeley to build housing on city-owned property: conduct an inventory of city owned properties and return to City Council as soon as possible with an evaluation and analysis of those properties that are appropriate for the development of affordable housing.

BACKGROUND

Across the state of California, urban centers are experiencing a crisis in housing availability at all levels of affordability. The crisis is very severe in the Bay Area. Lack of funds and subsidies from the state and federal government has exacerbated the obstacles to developing housing at all levels of affordability. In addition, the scarcity and the high cost of land in the Bay Area and in Berkeley, specifically, is an enormous barrier to producing affordable housing. Berkeley needs to optimize its limited resources now and look to partner with housing developers to build housing on city-owned land.

The City of Berkeley has a unique opportunity. The two senior centers, "North", on MLK and Hearst, and "South" on Ellis and Ashby and the Service Center on 6th Street are all in need of significant renovation. Now is the time to evaluate these properties to determine if it is feasible to create a mixed-use, housing/community center on these sites prior to spending millions of dollars on the current structures.

All City owned properties should be explored and evaluated for their potential as sites for housing development.

In addition, the Berkeley Unified School District owns property that has the potential to be developed as housing. The City of Berkeley should work closely with the BUSD to encourage them to move forward with their own analysis of potential housing sites that are currently under- utilized.

This severe housing crisis calls for all publicly owned land to be evaluated and considered.

FINANCIAL IMPLICATIONS: Staff time

CONTACT: Councilmember Susan Wengraf Council District 6 510-981-7160



Office of the City Manager

INFORMATION CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Timothy Burroughs, Director, Planning and Development

Subject: LPO NOD: 1440 Hawthorne Terrace/#LMIN2018-0003

INTRODUCTION

The attached Notice of Decision for a City Landmark is submitted to the Mayor and City Council pursuant to Berkeley Municipal Code (BMC) Section 3.24.160, which states that “a copy of the Notice of Decision shall be filed with the City Clerk and the City Clerk shall present said copy to the City Council at its next regular meeting.”

CURRENT SITUATION AND ITS EFFECTS

The Landmark Preservation Commission (LPC/Commission) has granted City Landmarks status to the property at 1440 Hawthorne Terrace, The Marsh House. This action is subject to an appeal period which began on October 15, 2019.

BACKGROUND

BMC/LPO Section 3.24.190 allows City Council to review any action of the Landmarks Preservation Commission in granting or denying Landmark, Structure of Merit or Historic District status. In order for Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Council member must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by October 30, 2019. Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must rule on the application within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

ENVIRONMENTAL SUSTAINABILITY

Landmark designation provides opportunities for the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

POSSIBLE FUTURE ACTION

The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There are no known fiscal impacts associated with this action.

CONTACT PERSON

Fatema Crane, Landmarks Preservation Commission Secretary, Planning and Development, 510-981-7410

Attachments:

1: Notice of Decision – #LMIN2018-0003 at 1440 Hawthorne Terrace

ATTACHMENT 1, PART 1



LANDMARKS PRESERVATION COMMISSION

NOTICE OF DECISION

DATE OF BOARD DECISION: September 5, 2019

DATE NOTICE MAILED: October 15, 2019

APPEAL PERIOD EXPIRATION: October 30, 2019

EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): October 31, 2019¹

1440 Hawthorne Terrace

The Marsh House

Landmark application #LMIN2018-0003 to designate a residential property as a City Landmark

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the following designation:

DESIGNATION: City Landmark

APPLICATION AUTHOR: Carolyn McNiven, 1440 Hawthorne Terrace, Berkeley, CA

ZONING DISTRICT: R-1(H), Single-Family Residential/Hillside Overlay

ENVIRONMENTAL REVIEW STATUS: Categorically exempt from environmental review pursuant to California Environmental Quality Act Guidelines, Section 15061 (*Review for Exemption*).

¹ Pursuant to BMC Section 23B.32.090, the City Council may “certify” any decision of the LPC for review, which has the same effect as an appeal. In most cases, the Council must certify the LPC decision during the 14-day appeal period. However, pursuant to BMC Section 1.04.070, if any portion of the appeal period falls within a Council recess, the deadline for Council certification is suspended until the first Council meeting after the recess, plus the number of days of the appeal period that occurred during the recess, minus one day. If there is no appeal or certification, the Use Permit becomes effective the day after the certification deadline has passed.

LANDMARKS PRESERVATION COMMISSION
NOTICE OF DECISION
#LMIN2018-0003
1440 Hawthorne Terrace
October 15, 2019
Page 2 of 4

The application materials for this project are available online at:

<http://www.cityofberkeley.info/zoningapplications>

FINDINGS FOR APPROVAL AND LANDMARK APPLICATION ARE ATTACHED TO THIS NOTICE

COMMISSION VOTE: 4-2-1-1 (one vacancy)

YES: ADAMS, ALLEN, O'MALLEY, SCHWARTZ

NO: ABRANCHES DA SILVA, FINACOM

ABSTAIN: CRANDALL

ABSENT: MONTGOMERY

TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):

To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1st Floor, Berkeley. The City Clerk's telephone number is (510) 981-6900.
 - a. Pursuant to BMC Section 3.24.300.A, an appeal may be taken to the City Council by the application of the owners of the property or their authorized agents, or by the application of at least fifty residents of the City aggrieved or affected by any determination of the commission made under the provisions of Chapter 3.24.
2. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
 - a. The basic fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less. Signatures collected per the filing requirement in BMC Section 3.24.300.A may be counted towards qualifying for the reduced fee, so long as the signers are qualified. The individual filing the appeal must clearly denote which signatures are to be counted towards qualifying for the reduced fee.
 - b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
 - c. The fee for all appeals by Applicants is \$2500.

LANDMARKS PRESERVATION COMMISSION
NOTICE OF DECISION
#LMIN2018-0003
1440 Hawthorne Terrace
October 15, 2019
Page 3 of 4

3. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).

If no appeal is received, the landmark designation will be final on the first business day following expiration of the appeal period.

NOTICE CONCERNING YOUR LEGAL RIGHTS:

If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must including the following information:
 - A. That this belief is a basis of your appeal.
 - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
 - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

LANDMARKS PRESERVATION COMMISSION
NOTICE OF DECISION
#LMIN2018-0003
1440 Hawthorne Terrace
October 15, 2019
Page 4 of 4

PUBLIC COMMENT:

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

FURTHER INFORMATION:

Questions about this action should be directed to the LPC Secretary, Fatema Crane, at (510) 981-7410 or lpc@cityofberkeley.info. All project application materials, including full-size plans, may be viewed at the Permit Service Center (Zoning counter), 1947 Center Street, 3rd Fl., between 8 a.m. and 4 p.m., Monday through Friday, except Tuesday when the Center closes at 3PM.

ATTACHMENTS:

1. Findings and Conditions
2. Landmark Application

ATTEST: 

Fatema Crane, Secretary
Landmarks Preservation Commission

cc: City Clerk
Application Author & Property Owners: Carolyn & Marion McNiven, 1440 Hawthorne Terrace, Berkeley, CA

DRAFT FINDINGS

SEPTEMBER 5, 2019

1440 Hawthorne Terrace**City of Berkeley Landmark Application #LMIN2018-0003**

PROJECT DESCRIPTION

Landmark Designation of the property at 1440 Hawthorne Terrace – The Marsh House & Garden

CEQA FINDINGS

1. The project is found to be exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.) pursuant to Section 15061.b.3 of the CEQA Guidelines (activities that can be seen with certainty to have no significant effect on the environment).

LANDMARK PRESERVATION ORDINANCE FINDINGS

2. Pursuant to Berkeley Municipal Code (BMC) Section 3.24.110.A Paragraph 1.a of the Landmarks Preservation Ordinance, and based on the evidence presented in the Landmark application, the Landmarks Preservation Commission of the City of Berkeley (Commission) finds that the subject property warrants City Landmark designation for its architectural merit as an example of the work of the notable Bay Area architect Henry Higby Gutterson. This property is a unique example of Gutterson's residential work in Berkeley and, more specifically, the Berkeley Hills at the time of its construction where it featured two primary residences (1440 and 1450 Hawthorne Terrace) and an accessory residence within a family compound setting that was integrated with a designed landscape.
3. Pursuant to BMC Section 3.24.110.A, Paragraph 4, the Commission also finds that the subject property warrants designation as a City Landmark because it embodies and expresses the history of Berkeley, Alameda County and California through its direct associations with James Cameron Sperry (1874-1942), a technological innovator and conservationist who commissioned the development of this property and was its original occupant. During Sperry's residency, when 1440 and 1450 Hawthorne were a single parcel featuring the Sperry family compound, he was active in nature conservation and was a leading member of influential organizations such as the League to Save the Redwoods.

FEATURES TO BE PRESERVED

1. This designation shall apply to the subject property and the following distinguishing features of the Marsh House, a portion of the original 1924 Sperry-Marsh House, including but not limited to:
 - A. Building exterior of Marsh House:
 - All exterior stucco and wood facades of the house;
 - All chimneys;
 - All exterior wood trim including but not limited to:
 - Window frames
 - Front portico
 - Finials
 - Cross beams
 - Bays and bay windows
 - Doors and door frames
 - All copper gutters, drainpipes and downspouts and related copper fixtures;
 - All roof tiles (the tile roof);
 - All doors and windows including but not limited to:
 - The front door
 - All exterior French doors, including those from the dining room to the exterior shared patio and from the front hallway to the rear deck over the arcade
 - The leaded glass diamond pane windows
 - B. Exterior hardscape features including but not limited to:
 - Shared laundry yards and tiered patio areas with their associated retaining walls and stairs, fountain, and wooden trellis joining the abutting residence at 1440 Hawthorne Terrace
 - All exterior stairs
 - Front tile entrance way
 - All metal railings
 - Front stairs and railings
 - Berkeley Rhyolite stone walls including those located on the subject property
 - Existing paths and pathways
 - Carved stone basin



Marsh-Sperry House and Garden

LANDMARK APPLICATION SUBMITTED TO
TO THE CITY OF BERKELEY
LANDMARKS PRESERVATION COMMISSION

LANDMARK APPLICATION PAPERWORK
FOR MARSH-SPERRY HOUSE AND GARDEN
LOCATED AT 1440 HAWTHORNE TERRACE
SUBMITTED PURSUANT TO CITY OF BERKELEY
ORDINANCE NO. 4694 N.S.
NOTE: APPLICATION PAPERWORK FOR SPERRY-
MCLAUGHLIN HOUSE (1450 HAWTHORNE
TERRACE) HAS BEEN SUBMITTED SEPARATELY
AND IS INCORPORATED HEREIN

CITY OF BERKELEY LANDMARK APPLICATION

1. **STREET ADDRESS:** 1440 Hawthorne Terrace
 City: Berkeley
 County: Alameda
 Zip Code: 94708

2. **ACCESSORS PARCEL NUMBER:** 059-2249-02700
 Block and Lot: 2249-02700
 Tract: Originally part of Ranchos of Vincent and Domingo Peralta (Plot 84); later part of the Beardslee Tract conveyed to Carlisle in 1887; later part of the Bayview Homestead
 Dimensions: Approx. 105 x 73 x 160 x 85 (see survey & assessor's map)
 Cross Streets: Vine Lane and Hawthorne Terrace

3. **Is The Property On The State Historic Resource Inventory?** No
Is The Property On The Berkeley Urban Conservation Survey? Yes. Form #: 24649

4. **APPLICATION FOR LANDMARKS INCLUDES:**
 - a. **Building:** Yes **Garden:** Yes **Other Features:** Yes **Natural:** Yes
Designed: Yes
 - b. **Landscape or Open Space:** Yes
 - c. **Historic Site:** Yes
 - d. **District:** No
 - e. **Other:** Additional features to be preserved listed at pages 32-34

5. **HISTORIC NAME:** Marsh-Sperry House & Marsh-Sperry Garden
Commonly Known Name: Marsh House

6. **DATE OF CONSTRUCTION:** 1924
 - a. **Factual:** Yes **b: Approximate:** No
Source of Information: Permit # 17854 issued Aug. 21, 1924.

7. **ARCHITECT:** Henry Higby Gutterson (house and hardscape); Mabel Symmes (landscape)

8. **BUILDER:** Axel Cederborg

9. **STYLE:** Period Revival (English Tudor)

10. ORIGINAL OWNER: James Cameron Sperry
11. PRESENT OWNERS: The McNiven Family Trust
12. PRESENT USE: Residential (Single Family)
Current Zoning: R-1(H)
Adjacent Property Zoning: R-1(H)
13. PRESENT CONDITION OF PROPERTY:
 - a. Exterior: Excellent
 - b. Interior: Excellent
 - c. Grounds: ExcellentHas the property's exterior been altered? Yes, minimally, as described on pages 14 & 30.
14. DESCRIPTION OF THE PROPERTY: See pages 10-32
15. HISTORY: See pages 34-63
16. SIGNIFICANCE: See pages 64-79
Historic Value: State: Yes. City: Yes. Neighborhood: Yes
Architectural Value: State: Yes City: Yes. Neighborhood: Yes
Basis for Landmark Designation: See pages 8-10
17. Is the property endangered? House, no; Garden, uncertain.
18. Photographs: as noted throughout Date: various as noted
19. Recorder: Carolyn F. McNiven Date: Oct. 9, 2018
20. Repository: Berkeley Architectural Heritage Association has agreed to put a copy of this document in their permanent collection, and it will be made available to the public upon request.

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INTRODUCTION

The architectural, cultural and historic significance of Marsh-Sperry House and Garden is tied to its fraternal twin, the Sperry-McLaughlin House, at 1450 Hawthorne Terrace. Built at the same time in 1924 by Joseph C. Sperry, a key figure in the Save the Redwoods League, Marsh-Sperry House was the residence of Sperry's widowed sister, Marion Sperry Marsh, the former post-mistress of the Big Trees post office and caretaker of the Mammoth Hotel.

Gutterson authority Susan Dinkelspiel Cerny described the two as particularly fine examples of Gutterson's residential style. The house that Gutterson designed for Marion at 1440 is more compact and rectilinear than its fraternal twin at 1450. Also done in an English Tudor-Period Revival Style, it sits more squarely and higher on its narrower lot. It shares the same high peaked and tiled roof as its neighbor but features more whimsical elements, including a front turret featuring diamond paned leaded glass windows.

James Sperry and his family enjoyed their family compound, hosting parties and numerous weddings. The Garden was later enjoyed by the homes' second-generation occupants, the McLaughlin and McNiven families. Sylvia and Don McLaughlin hosted significant meetings, fundraisers, parties, and family events there, as did the McNivens albeit to a lesser extent. Many Berkeley residents have fond memories of attending events and parties there, and the special place is woven into the fabric of Berkeley. Thanks to Sylvia McLaughlin and Marion McNiven (shown below) the two homes and the Marsh-Sperry Garden have remained essentially as they existed when Gutterson and Symmes designed them



BASIS FOR LANDMARK DESIGNATION

The Marsh-Sperry House and the Marsh-Sperry Garden are worthy of designation as a City of Berkeley Landmark because they conform to the following:

BMC 3.24.110.A.a. Architectural Merit (first, last, only, or most significant architectural property of its type in the region).

The Marsh-Sperry House (together with the Sperry-McLaughlin House also under nomination for consideration for landmark designation) is over 50 years old and the **only known example** of a twin-house compound designed by well-known Bay Area Architect Henry Higby Gutterson. The Marsh-Sperry House and the Marsh-Sperry Gardens are also over 50 years old and **the only known collaboration** between Gutterson and notable landscape architect Mabel Symmes. The Marsh-Sperry Garden is the **only remaining twin garden design** by Mabel Symmes anywhere and **the only known remaining intact Symmes garden in Berkeley**. Further the combined size of the houses and gardens and the nature of their relationship with the Sperry-McLaughlin House make them the most significant twin/family compound property in the North Berkeley Hills.

BMC 3.24.110.A.b. Architectural Merit (Prototypes or outstanding examples; most notable work; best surviving work)

The Marsh-Sperry House is **an outstanding example** of a Period Revival style home by the master Berkeley Architect Henry Gutterson. It together with the Sperry-McLaughlin House were built as two side-by-side homes on one parcel with a shared garden planned by the notable Landscape Architect Mabel Symmes, who designed Blake Garden in Kensington, which was also built for two homes but since subdivided. The Sperry-McLaughlin House and its twin the Marsh-Sperry House are **one of Gutterson's most notable works in Berkeley**. The Marsh-Sperry Garden appears to be the **only surviving intact work** of landscape architect Mabel Symmes in Berkeley.

BMC 3.24.110.A.c. Architectural Merit (worth preserving for the exceptional values they add as part of the neighborhood fabric).

The Sperry-McLaughlin House and Marsh-Sperry House were recognized at the time they were constructed as the most significant post-1923 fire homes built in the Berkeley Hills in 1924. Together the houses **add enormous value to the neighborhood**, particularly when considered alongside the other handsome Gutterson homes in Hawthorne Terrace. Together the two houses and the garden that they share are **uniquely Berkeley** and uniquely part of the architectural "story" of this particular North Berkeley Hills neighborhood. As the only known architectural examples of twin homes and gardens by Gutterson and Symmes as collaborators; the only remaining family compound designed by Gutterson and Symmes; and as a particularly significant example of each of their work, the Sperry-

McLaughlin House (and the Marsh House) and gardens are worth preserving for the **exceptional values that they add as part of the neighborhood fabric.**

BMC 3.24.110.3. Cultural Value

The Marsh-Sperry House together with the Sperry-McLaughlin House has a unique place in the cultural history of Berkeley and the region as a whole, and remains of considerable cultural value to both. First, they express the indomitable spirit and forward thinking of Berkeley residents. Their construction occurred within the context of the **rebuilding of Berkeley after the 1923 Fire** and the emergence of the **Second Bay Area Style of design**, of which Gutterson was a proponent. Mabel Symmes, the garden's landscape designer, was **one of a few pioneering women landscape architects**, including Willa Clair Cloys Carmack (another well-known female Bay Area Landscape Architect), who trained in the fledgling landscape design department at Cal under Katherine Jones, the departments' first woman lecturer.

Second, Marsh-Sperry House was built by **James C. Sperry, a key figure in Save the Redwoods League** for his sister, a pioneering female post-mistress in 1890s Northern California, who eventually married into another prominent California pioneering family, the Marshes. The Marsh-Sperry garden was beloved by (and used by) local environmentalist legend Sylvia McLaughlin, who together with Marion McNiven worked hard to preserve Symmes's garden for generations to come.

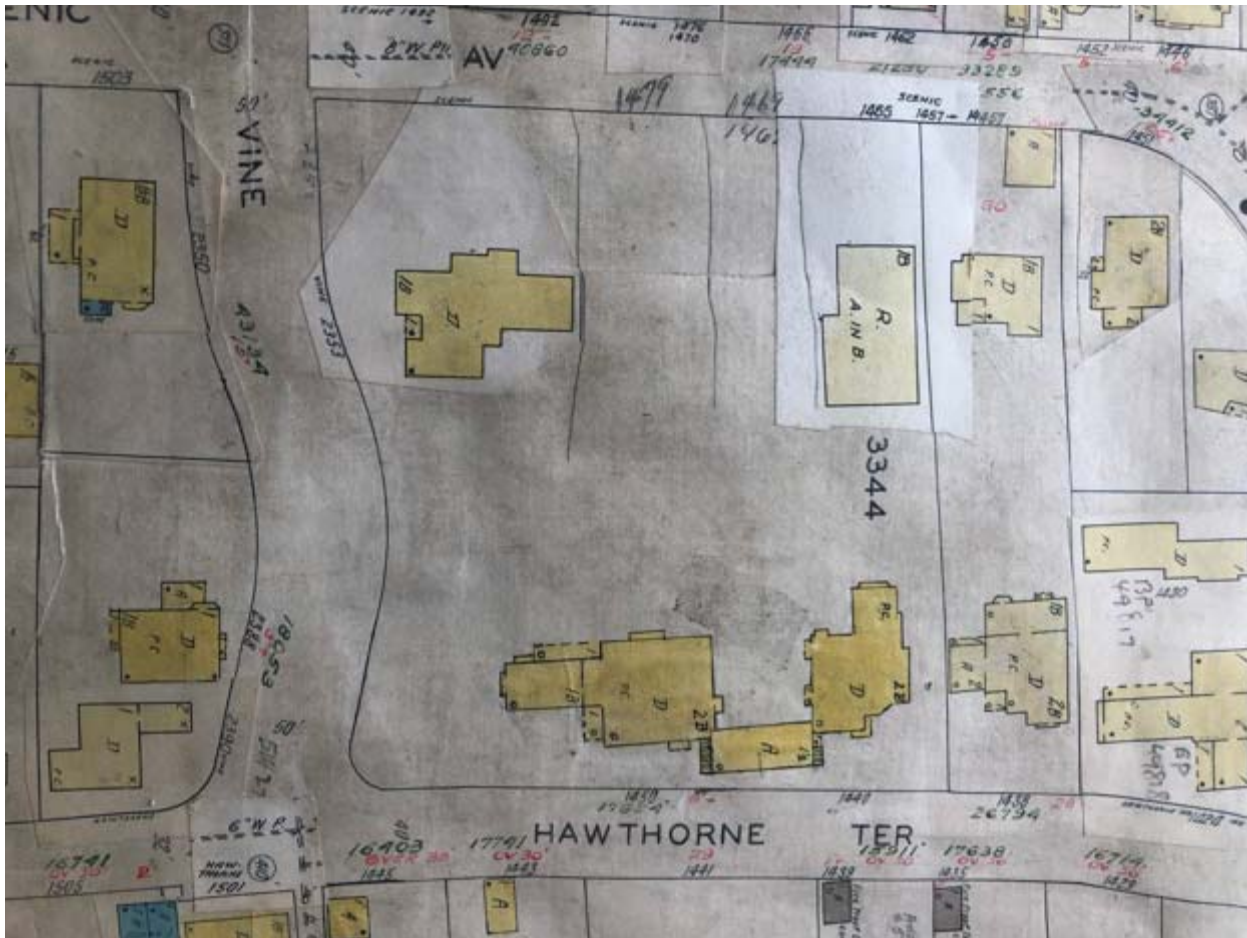
BMC 3.24.110.4. Historic Value

The Marsh-Sperry House, the Sperry-McLaughlin House, and the Marsh-Sperry Garden uniquely express the history of Berkeley. They were designed over 50 years ago by one prominent Berkeley High School graduate (Henry Gutterson) and a pioneering female landscape architect (Mabel Symmes). Although Marion Marsh may not have been as prominent as her brother James Sperry, she was a pioneer in her own right, having worked as a post-mistress for the Big Trees area in Calaveras County and running her family's hotel there. Marion was clearly an integral member of James Sperry's family, and together their homes are worth of protection insofar as they exemplify the determination of Berkeley residents to rebuilt after the devastating fire of 1923 and – in the case of these two homes --- spare no expense to do so.

DESCRIPTION OF PROPERTY

1. THE SITE AND SURVEY¹

The Sperry-McLaughlin House (1450 Hawthorne Terrace) and Marsh House (1440 Hawthorne Terrace) were originally part of the same North Berkeley parcel boarded by Hawthorne Terrace, Vine Lane, and Scenic Avenue. It was part of the Berkeley



View Homestead plot carved out of the Carlisle Tract.² Exhibit A shows the houses' orientation on the original plot as reflected in the Sanborn Map. 1450 sits at the Northwest corner of Vine Lane and Hawthorne Terrace; 1440 is immediately to the North. An attached garage structure joins the two houses. (Photo: MTU Consultants). After the property was subdivided, houses were constructed fronting Vine Lane and Scenic (these are not covered by this application).

¹ This section on the site duplicates that in the Sperry McLaughlin Application and therefore may be skipped if the other has been read.

² The Alameda County Assessors Map shows the parcel as having been originally part of the Rancho of Vincente & Domingo Peralta. According to the legal description it was part of a tract Beardslee deeded to Carlisle in 1887. Berkeley Maps of a later date are more ambiguous as to the tract name when it was conveyed to James C. Sperry. See Appendix B (maps).

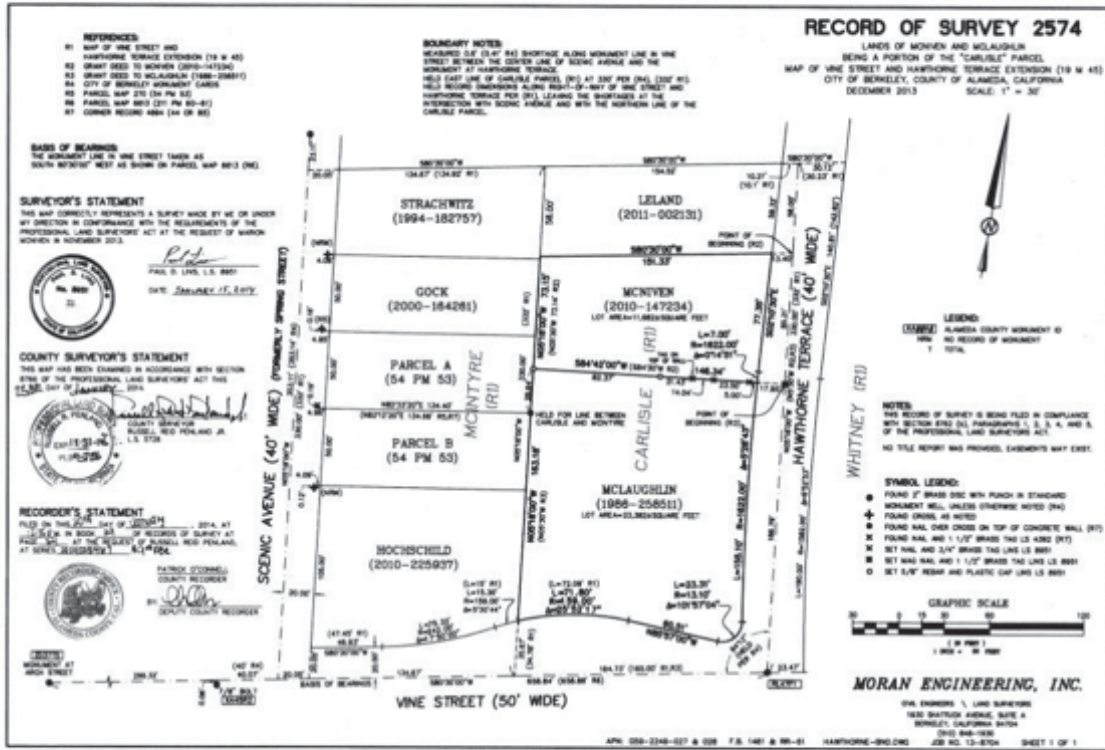


Above is a view from above of the 1450 and 1440 Hawthorne Terrace Properties (photos: Google Earth, January 2018)



- Red Arrow: The Sperry-McLaughlin House (1450 Hawthorne Terr)
- Blue Arrow: The Marsh House (1440 Hawthorne Terr)
- Yellow Arrow: The “shared” formal center yard with arbors (garage structure visible along Hawthorne Terrace frontage)
- White Arrows: the rear gardens flowing out of center area
- Green Arrows: points to natural landscaping and Redwood grove

2014 Survey (reflecting subsequent subdivisions).



Record of Survey 2574 Map BK 39 PG 34

Hawthorne Terrace was hard hit in the 1923 Berkeley Fire, and no existing structures remained on the 1450-1440 property after the fire swept down the hill. What was left was the hill terrain, which is a gentle South/Southwestern slope towards Vine Lane. The houses and their landscape conform to the hill's gentle slope. 1440, the Marsh House, sits slightly higher on the hill to the North, and its front entrance features a staircase down to the front door bordered by a retaining wall. The entrance of 1450 (the Sperry-McLaughlin House) is level with the street, and likewise fits in with the gentle rise of the slope. The rear and side gardens of both feature original Berkeley Rhyolite walls throughout including along the Vine Street frontage of 1450.

As discussed further below, Gutterson designed both houses in a so-called Period Revival Style, featuring stucco and wood surfaces, and terracotta tile roofs. They have an English country home feel, with formal rooms that are both handsome and

comfortable with magnificent views. The houses were clearly built for entertaining in the California way, with parties flowing from indoors to outdoor spaces.

The two houses are fraternal twins, meaning they are of comparable designs but individually distinct. They are connected by a two-story garage/apartment structure along Hawthorne Terrace featuring an arbor with original trumpet vine. In the rear, there is a central shared garden between the two homes (behind the garage/apartment structure) with a concrete patio featuring a wisteria-covered arbor that runs from French doors off the Marsh house dining room to French doors off the dining room of the Sperry-McLaughlin House.

The cement patio is original as is the design of the formal center lawn, flower beds and shrubs. At the Western edge of the center lawn sits another smaller arbor covered by rose vines and wisteria. This arbor is not original to the property; it was built to replace a Chinese tea house designed by Gutterson (see Appendix E) that was not extant by the late 1950s/early 1960s when the two properties changed hands.

Unlike most of Gutterson's designs for homes in St Francis Woods in San Francisco, where the façade was of central importance, these two houses keep their majestic aspects hidden, showing them on the West Elevations towards the private garden.

Part of this effect is of course due to the lovely Marsh-Sperry Garden at the rear. The



property was fully landscaped as part of a single design plan by Mabel Symmes (UC 1896) in a closely similar style to the garden that she designed for the Blake Estate in Kensington. As with the Blake Garden, the Marsh-Sperry Garden (so called on the original blue prints) features formal areas including lawns, hedged rose and

iris beds, and water features flowing into a more natural "woodland" featuring native and non-native trees and shrubs. The entire property is crisscrossed with numerous paths and open vistas to the San Francisco Bay.

2. THE EXTERIOR OF MARSH-SPERRY HOUSE

As noted previously, Marsh-Sperry House sits higher on the hill than 1450. For that reason, Gutterson designed a cement staircase leading down and to the South to the covered front door at the Northern most edge of the home. The exterior finish is rough stucco with half-timber elements. The windows are largely original. The roof features the original red ceramic tile and chimneys.

Whereas the Sperry-McLaughlin House has a rambling feel thanks to its long-North-South axis, the Marsh-Sperry House is more compact, upright, and (for want of a better term) dense. Its Eastern Elevation is comparatively narrow, showing a high peaked roof, a turret (which encloses the staircase to the second-floor), and a dormer window over a covered entry way. (figure 3) The entry way features a diamond-paned leaded glass window to the right of the door (figure 4). The Marsh-Sperry house also does not have a large side-yard. The Walter Ratcliff house to the North is built along the property line, so there is not much distance between those two homes. The original retaining walls and paths, however, remain.

At the rear, there is a two-story bay window (figure 10) that faces the Bay. The first floor sits over a full finished basement that opens onto the rear garden via an arched doorway. After the current owners purchased the home in 1959, they enclosed an existing first-floor terrace to create a sunroom. That sunroom (which sits at the house's South-West corner) was replaced recently with a more architecturally appropriate façade designed by architect Stephen Sooter. Other than this one alteration, the exterior façade of the Marsh-Sperry House is just as Gutterson designed it.

The house incorporates the Marsh-Sperry Garden in much the same way as the Sperry-McLaughlin House. French doors off the dining room open out to the shared wisteria arbor and patio, featuring a working fountain and magnificent Bay Views. While much of the rear yard of 1440 is as Symmes designed it – including the Brazilian Soap Bark trees that she planted – the hedged rose beds immediately to the rear of the bay window did not survive. When the current owners moved to the property in 1959, the rear yard was overgrown, and the roses had been moved to the rear of the center yard (where there was more sunlight). The shrubs around the perimeter of the rear yard are either original or like replacements, but the roses were not restored due to a large cypress tree, recently removed. A plan is underway to restore the rose beds to that rear area.

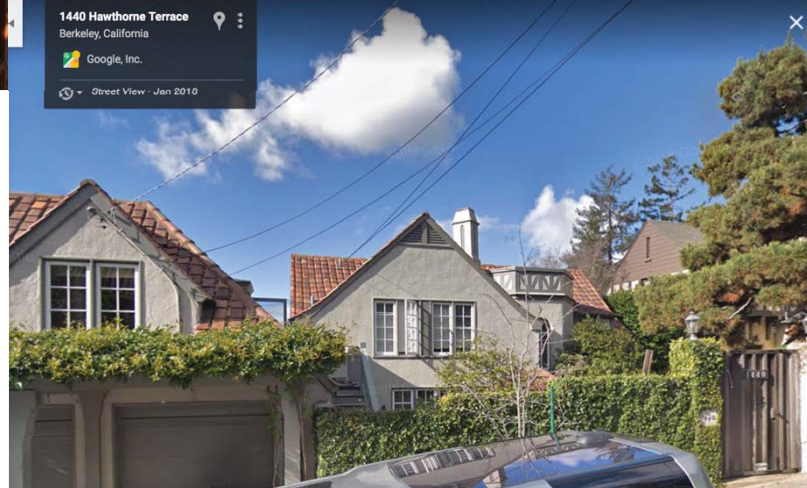
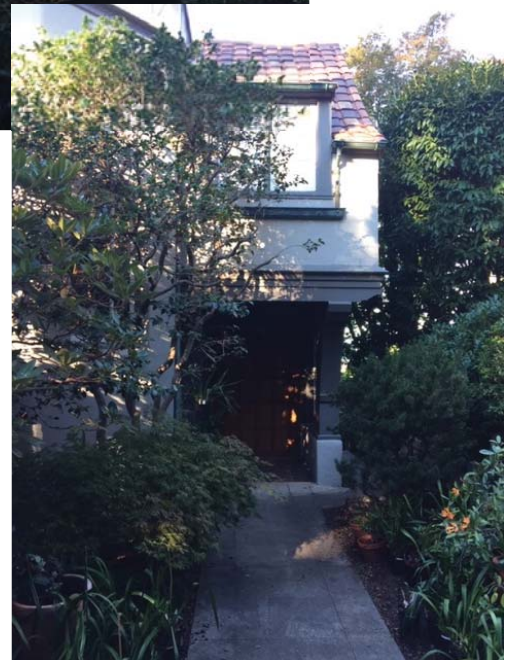
EASTERN ELEVATION (FRONT FACING HAWTHORNE TERRACE)



Fig. 1 & 2 (left) showing front peaked roof with adjacent turret;



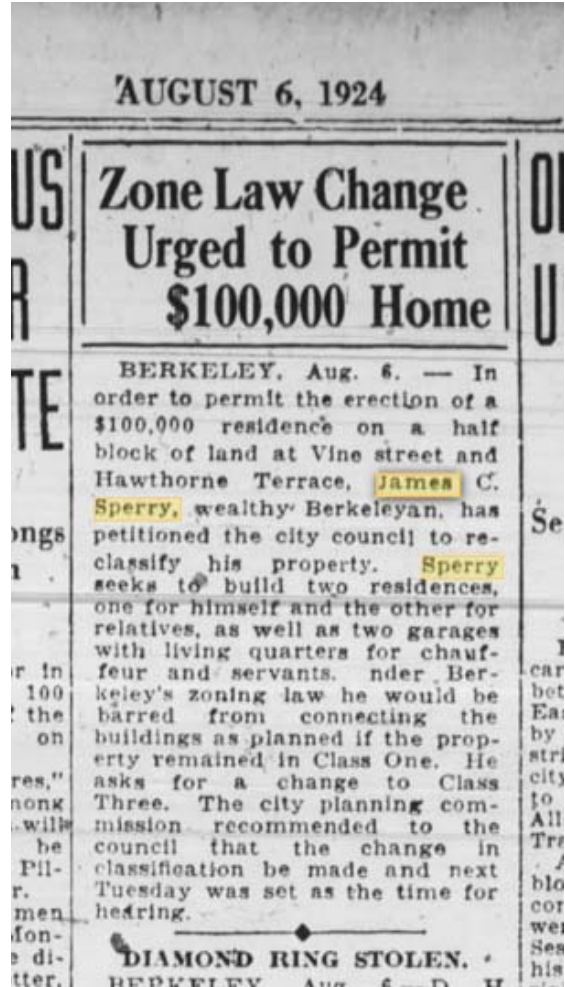
fig 3 (below right) showing entry way; fig. 4 (left) showing diamond paned windows at entry way. (photos: McNiven Family)
Fig.5, street view (Google Maps Jan 2018)





The adjacent garage/apartment structure is visible in the photo to the left (fig 6) and shows the dormer window, peaked roof and trumpet vine arbor. Construction of that structure and attached arbor required a zoning adjustment as described in the news articles of the time.

Because the 1440 House was on the uphill side of the Sperry property, Gutterson designed retaining walls and a staircase to “frame” the front entrance of the house. (fig. 7, below). (photos: McNiven family)



NORTHERN ELEVATION



As noted previously, the house to the North of 1440 (Walter Ratcliff's 1430 Hawthorne Terrace house) is close to the property line with 1440, so photographs are difficult to take of this elevation. As you can see, the central chimney is on the northern Elevation (fig. 8) are a series of diamond paned windows that run along the interior and exterior entrance way. (fig. 9). Photos: McNiven family.



WESTERN ELEVATION



Fig. 10 (left) shows the bay windows, terrace (now enclosed sunroom), and lower arched doorway; fig. 11 (lower left) shows the bay from the side showing the wood details of the support under the bay; fig. 12 (below) shows Symmes' original hardscaping with Berkeley Rhyolite; fig. 13 (lower) shows the Brazilian soap bark trees planted by Symmes.



SOUTHERN ELEVATION



(Photo: above courtesy of BAHA; below, McNiven Family).



GARAGE STRUCTURE



Photo above shows the Eastern Exposure of the garage structure between the Sperry-McLaughlin and Marsh Houses. The trumpet vine and arbor are original as are the fig vines covering the exterior walls. (photo: Jan. 2018 Google Maps)

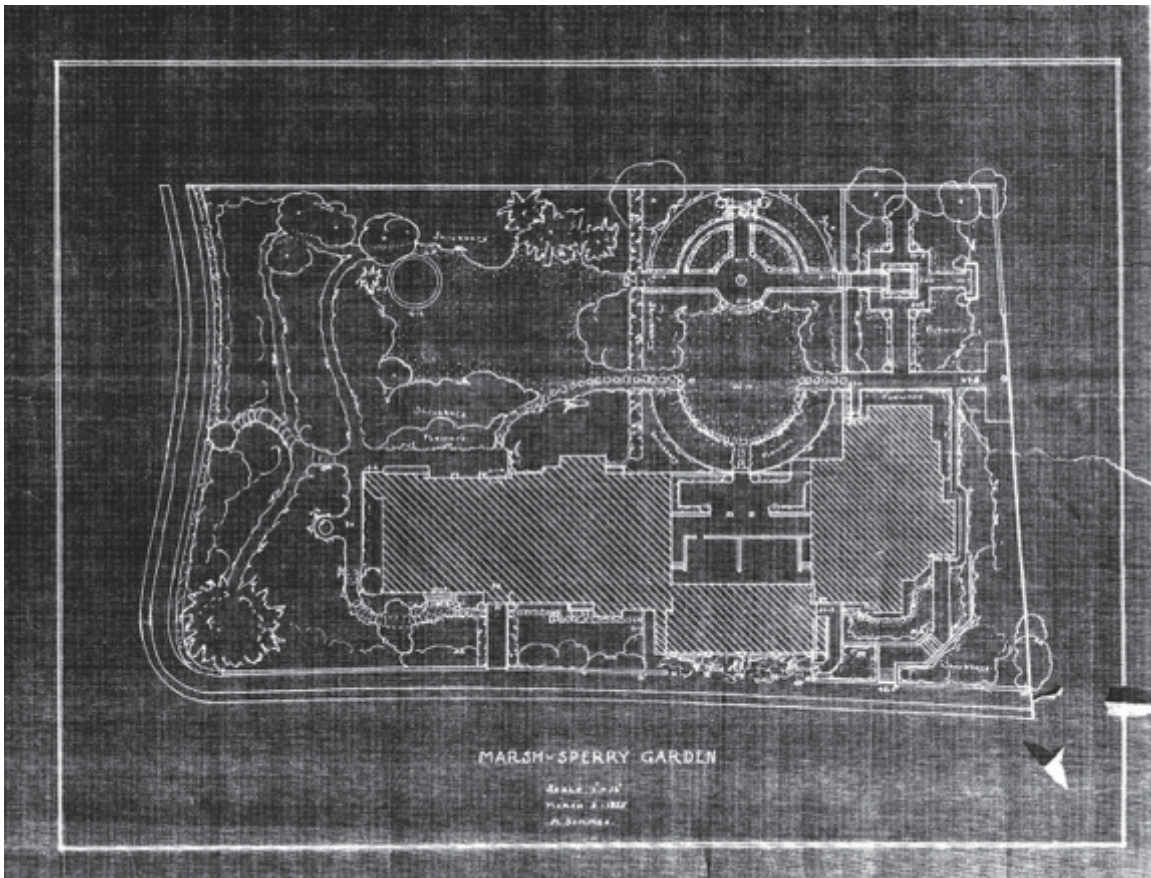
Photo to the right shows the Western Exposure and looks down into the twin laundry yards of the 1440 and 1450 houses. Because the houses stand on a slope, the laundry yard of the 1440 house sits higher than that of the 1450 House and is supported by retaining walls running East to West and North to South. These laundry areas were accessible to the basement laundry rooms of each house. The rooms above the garages were designed as servants' quarters. Notice even the garage has windows!

The common patio and arbor shown on the previous page abuts these laundry yards to the West. (photo courtesy of BAHA)

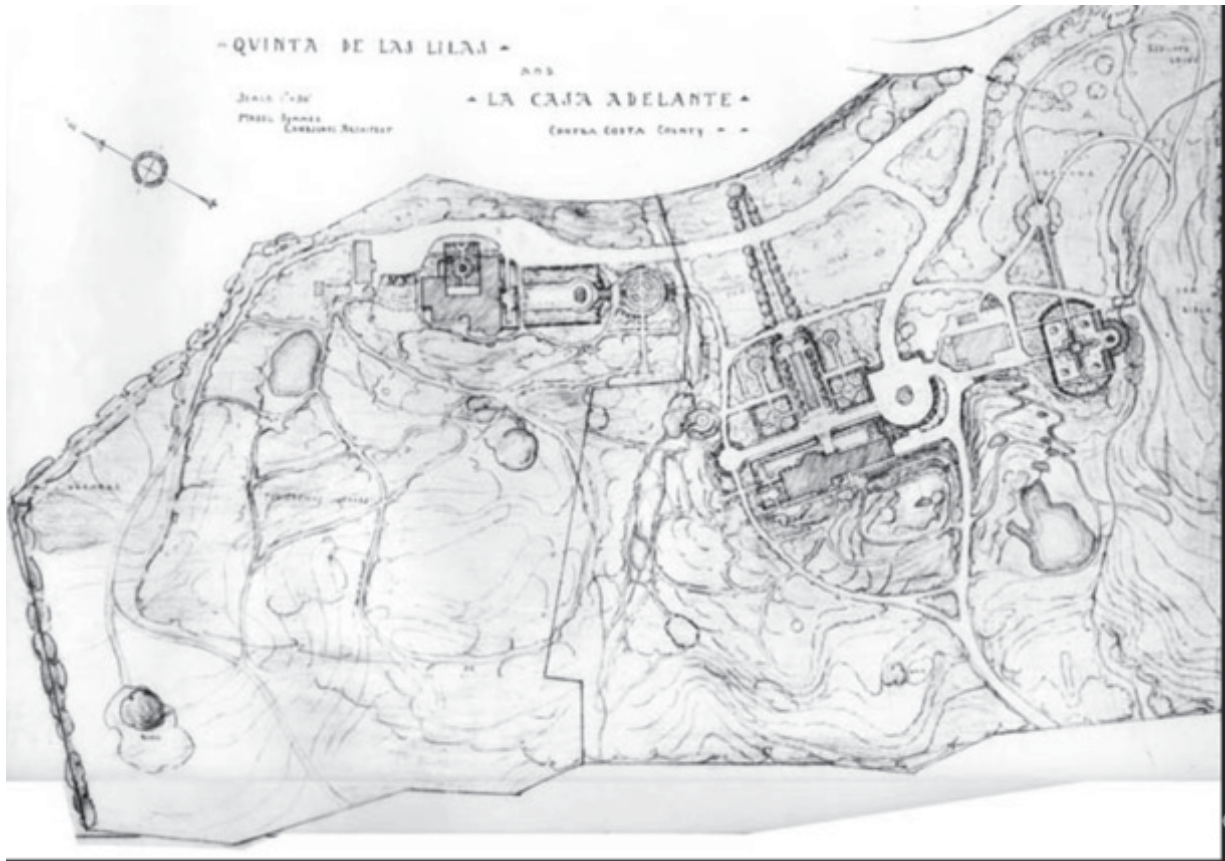
3. DESCRIPTION OF MARSH-SPERRY GARDEN



A comparison of this Google Earth view of 1450 and 1440 show that the basic design and key features of Symmes' original design has been preserved. The Rhyolite rock walls, paths, lawns and grove of trees and shrubs remain. Notice the formal center lawn between the two homes and the sloping lawn behind the 1450 house that spills into the mini-wilderness of redwoods and other native trees such as mature live oaks and other species.



SIMMILARITY BETWEEN MARSH-SPERRY GARDEN (c. 1923) AND THE BLAKE GARDEN (c. 1923-25)



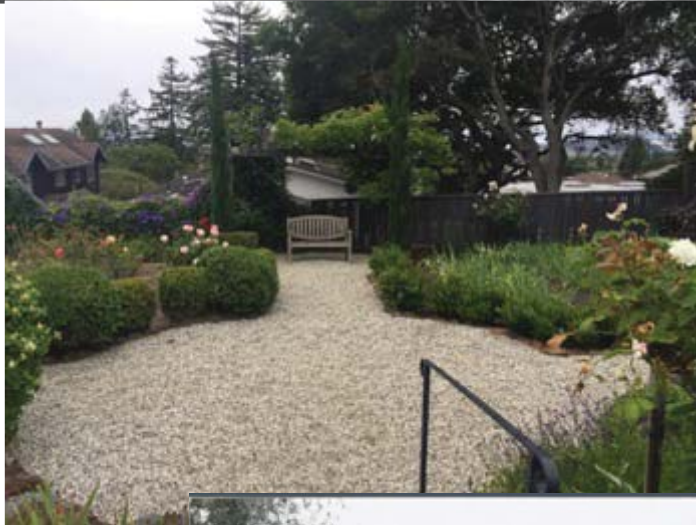
Above is a black and white reproduction of Symmes's original design for the two houses on the Blake property on 77 Rincon Rd. in Kensington. Below is a focused view on the gardens near what is now Blake House. The inclusion of formal rose gardens bordered by hedging (indicated by red arrows) is very similar to features of the Sperry-Marsh Garden as is the inclusion of wilderness elements (indicated here by the blue arrow) including its Redwood canyon which is a larger version of the Redwood grove at the Sperry-Marsh Garden.



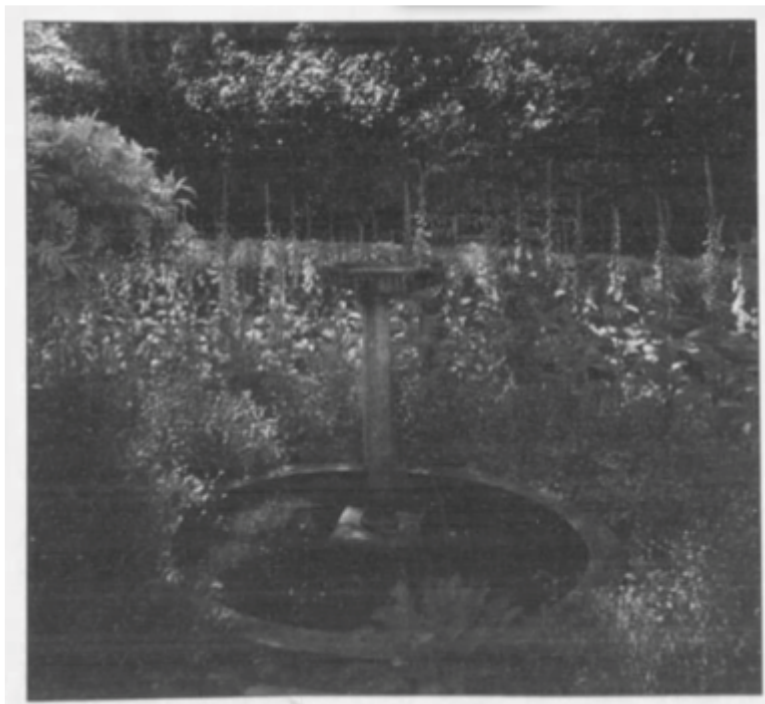
SAME DESIGN: Formal Rose Beds surrounded by boxwood hedging



Top & bottom pics: Blake house (undated) courtesy of UCB CEB archives; color photos, Sperry-Marsh garden 2108 (McNiven family)



SIMILAR PLANTING, WATER FEATURES AND HARDSCAPING



Left: undated photo of bird bath in Blake Garden with Fox Gloves (digitalis) surrounding; Below: color photographs of birdbath in Marsh-Sperry Garden (photo courtesy of BAHA) and foxgloves (photo, McNiven family)





Left: photo of water feature at Blake Gardens; Below: photo of fountain at Marsh-Sperry Garden (photo courtesy of BAHA). Notice Chinese pottery used on both (as tile trim on Blake Gardens fountain; as fountain spout in Marsh-Sperry Garden).



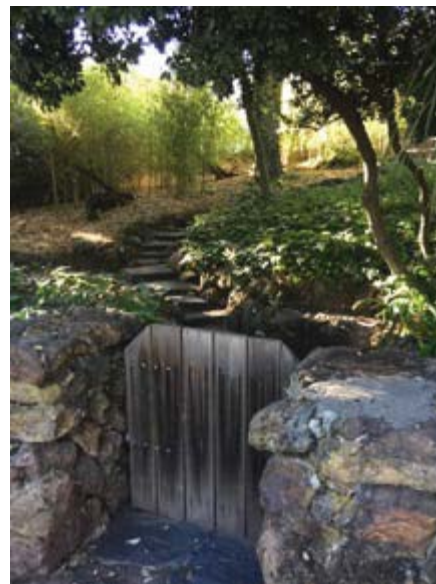


Left: photo of Redwood grove in Blake Gardens; Below, photo of Redwood Grove in Marsh-Sperry Garden (part of Sperry McLaughlin grounds).





Top photo: Path, Blake Gardens, circa 1958 (CED archives); lower photos: Path Marsh-Sperry Garden, circa 2016 (photos courtesy of BAHA)



The comparisons on these past pages illustrate the integrity of the Marsh-Sperry Garden as well as the strength of Symmes' vision for the landscape, namely to use the natural features of the property including the sloping hill and Western exposure, to create an unusual combination of a formal garden with an (almost) untamed wilderness. The integrity, strength of vision, and careful execution are worthy of preservation both on their own architectural merit as well as their cultural and historic significance.

4. IMPORTANCE OF GARDENS & LANDSCAPE TO MARSH-SPERRY HOUSE

The Marsh-Sperry Garden is important to the integrity of Gutterson's overall design for the twin houses. Gutterson's design for each house made the most of the site, which has a wonderful view of the Bay, and the garden. (photos: C. McNiven)



HISTORIC INTEGRITY AND CONDITION

Historic integrity consists of seven aspects: location, design, setting, materials, workmanship, feeling, and association. The Marsh-Sperry House has not been moved. Its design is unchanged. Materials and workmanship are nearly original and intact. The site of the house, the landscaping and the immediate area are largely unchanged from their construction post 1923 fire and convey the historic setting, feeling, and association. Therefore, the property retains all seven aspects of historic integrity

Marsh House is in excellent shape for its age. The original windows, exterior doors, gutters, and woodwork are intact. Notably the original windows of both houses were constructed of Alaskan cedar which is particularly durable and (of course) no longer obtainable. Some windows at Marsh House were replaced with facsimiles due to age, and the house has been painted (the original stucco was colored but unpainted). Both houses have been reroofed using the original terracotta tiles and, where necessary, identical replacement tiles. The chimney has been braced. The McNiven Family has Gutterson's original blue prints for the home and Symmes's plan for the garden, which they are happy to make available for inspection.

The landscaping for both houses (referred to herein as the Marsh-Sperry Garden based on Symmes's plan) has been little changed from Mabel Symmes' original design. The lawns, shrubs, paths, walls, working fountain, hedging, and redwood grove remain. The rose garden in the center of the property remains -- albeit with replacement plants. The original rose beds directly behind Marsh House were not extant when the current owners moved in as noted previously. However, the scrubs and trees are largely original or like replacements. The current owners replaced the central dirt area with a lawn but have engaged a historic landscape designer to provide advice on restoring the original rose beds. The roses had been moved by Mrs. Marsh to the lower bed in the shared yard area where there were over 65 varieties of roses in that small space when the current owners moved in. The fountain in the central shared patio has been recently restored by the current owners of the Marsh-Sperry House and is working. The central shared patio and arbor features the original cement surface, wooden arbor, and even the original wisteria plant.

ASPECTS TO BE PRESERVED

- The exterior of Marsh-Sperry House including but not limited to the following:
 - All exterior stucco and wood facades of the house;
 - All chimneys;
 - All exterior wood trim including but not limited to:
 - Window frames
 - Front portico
 - Finials
 - Cross beams
 - Bays and bay windows
 - Doors and door frames
 - All copper gutters, drainpipes and downspouts and related copper fixtures;
 - All roof tiles (the tile roof);
 - All doors and windows including but not limited to:
 - The front door
 - All exterior French doors, including those from the dining room to the exterior shared patio and from the front hallway to the rear deck over the arcade
 - The leaded glass diamond pane windows
- All exterior hardscape features including but not limited to:
 - Rear concrete patio with fountain and retaining walls;
 - Rear wood arbor with wisteria (shared with Sperry-McLaughlin House);
 - Side so-called laundry yard behind shared patio area
 - All exterior stairs
 - Front tile entrance way
 - All metal railings
 - Front stairs and railings
 - All Berkeley Rhyolite stone walls including those located in the shared area with the Sperry-McLaughlin House
 - Arbor at West-End of shared yard including climbing rose and wisteria

- Existing paths and pathways
- The Marsh Sperry Garden, including but not limited to:
 - The center and rear lawns
 - The ponds (which may be restored)
 - All wisteria vines
 - All hedges
 - The redwood grove
 - All rose beds
 - All flower beds
 - The cedar trees in front of the rear trellis
 - Fig vine on front wall

HISTORY



1. BUILDING OF THE HOME³

When fire swept down through the North Berkeley hills on September 17, 1923, it took with it many of the primarily brown wood-shingled homes that dotted the area. The devastation is visible in the photos above. One of these homes was the famous “grey gothic” owned by Colonel Edwin Langdon, which together with its equally famed orchard on Hawthorne Terrace was burnt completely.⁴ Langdon commissioned Henry H. Gutterson to design a majestic English Tudor half-timbered house at 1441 Hawthorne Terrace as a replacement. Langdon sold the property immediately to the North to a friend, General McNeill, who also had Gutterson design his home, a much smaller English style cottage.

After James C. Sperry purchased the lot opposite the Langdon and McNeill properties, he too commissioned Gutterson to design homes for his

Berkeley in its restored hillside region can now boast one of the most artistic residential regions in the state. The fire has brought a revival of the early California type of architecture and the Spanish motif, carried down from the days of the dons, predominates the hill region.

The distinction of building the most expensive structure in the fire area belongs to J. C. Sperry, who recently took out a permit for a dwelling at Hawthorne Terrace and Vine street to cost \$68,107. The Japanese Students' club of the University of California took out the last permit of the year to replace its building on Euclid avenue near Le Conte at a cost of \$25,000.

³ This section is identical to that in the Sperry-McLaughlin Application.

⁴ “Architect Left Mark on Neighborhood,” *Berkeley Gazette*, Mar. 21, 1979.

family and for his sister Marion Marsh. At the time, the homes were the “most expensive” structures in the fire area as reported in the article that accompanied the headline and photos shown above from the *Oakland Tribune* dated September 17, 1924, lauding the rapid re-development of the fire-scarred hills.

Gutterson also designed three other post-fire homes on Euclid Avenue just above the Langdon and McNeill properties⁵, as well as another “favorite Gutterson”⁶ on Bayview. Other architects too were brought in to design new residences along Hawthorne Terrace including Bernard Maybeck (1408), John Hudson Thomas (1427, 1435), Julia Morgan (1411), and Walter Ratcliff (1431). A Julia Morgan house, at 1404 Hawthorne Terrace, survived the fire.

The Sperry-McLaughlin and Marsh homes adopted so-called fire-proof construction, including tile or slate roofs and cement or stucco exteriors. These features represented a shift away from the brown wood-shingled designs of the so-called first phase of Bay Area residential design that Morgan, Maybeck and others had made so famous. He also used locally sourced stone (Berkeley/Northbrae Rhyolite) for the boundary walls.

Sperry hired Oakland-based builder Axel (a/k/a Alex) Cederborg to construct the two homes. Cederborg was a well-known builder who constructed many significant homes in Berkeley, Oakland and Piedmont, including a house for the Ghirardelli family in Piedmont. Cederborg

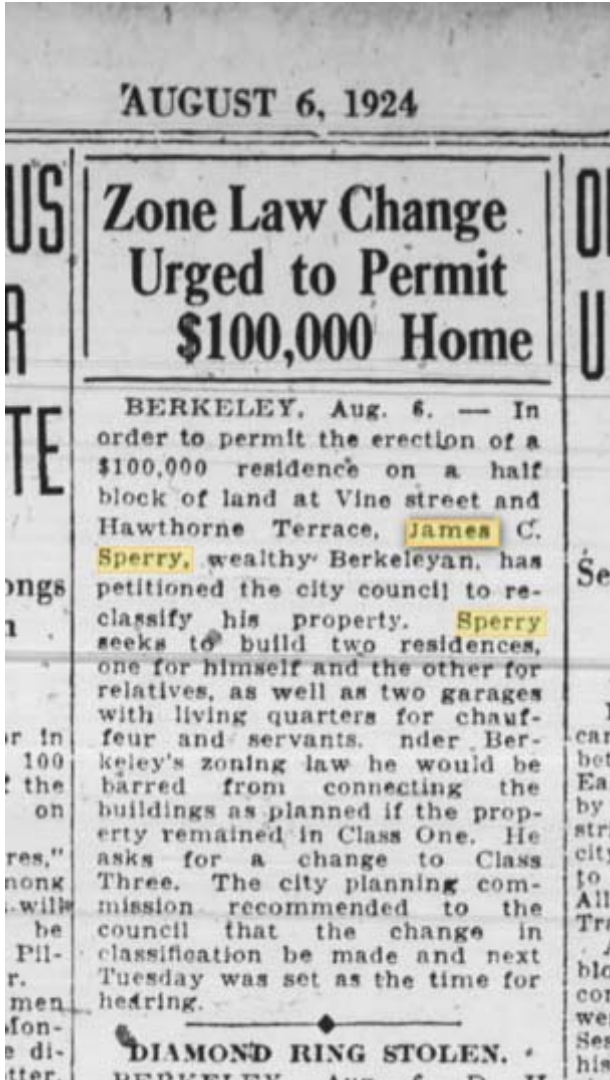
applied for a permit to build the homes and the apartments and garage for the astronomical sum of \$68,107. The application is shown at left (and in full size in the Appendix). The permit application was reported in the *San*

⁵ These included the house at 1460 Euclid Ave (1924) that Gutterson designed for Amos Huggins on the foundation of their prior home that burned in the fire. Their yard was reportedly landscaped by Willa Cloyes Carmack, demonstrating (yet again) that Gutterson worked with landscape architects frequently (and female landscape architects at that).

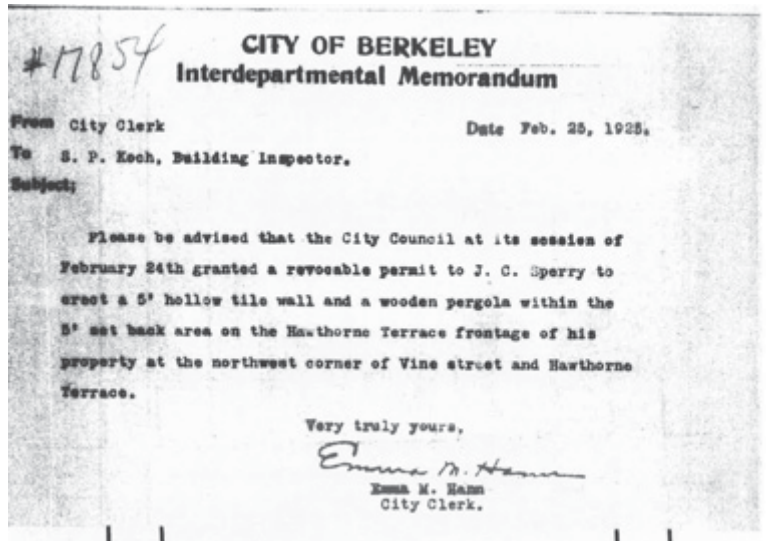
⁶ *Id.*

Francisco Examiner (Aug. 2, 1924), probably due to the high price, \$75,000, when the standard price of an average luxury home was closer to \$5000-10,000.

Sperry ran into zoning difficulties and had to apply for special permission to build the twin homes with the connecting garage/apartments. Presumably he received this permission because a permit was issued on August 24, 1924 (Permit No. 17854). Note that the quoted price had risen: according to the article, the cost would be \$100,000, a stunning sum in those days. Likely the increase was due to the inclusion of the garage structure.

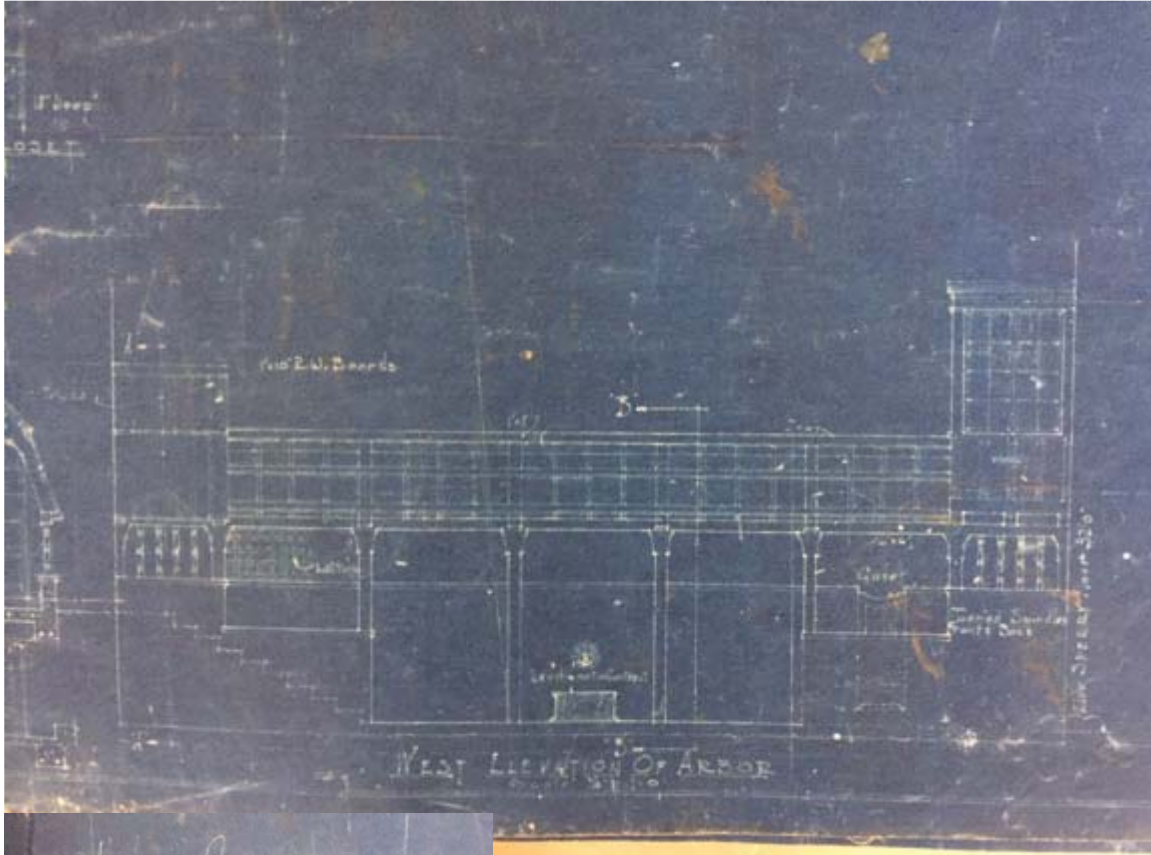


On February 25, 1925, via interdepartmental memo from the Berkeley City Clerk, the City's Building Inspector S.P. Koch, was advised that the City Council at its February 24th hearing "granted a revocable permit to J. C. Sperry to erect a 5' hollow tile wall and wooden pergola within the 5' setback area on the Hawthorne Terrace frontage of his property at the northwest corner of Vine Street [sic] and Hawthorne Terrace." That pergola is still standing in front of the garage/apartment structure between the two houses along Hawthorne Terrace and is covered with the original trumpet vine.



(article above from Oakland Tribune, dated Aug. 6, 1924; memo at right courtesy of BAHA)

The McLaughlin family was not able to locate the original plans for the house prior to its sale in late 2016; however, McNivens retain the original plans for Marsh House which includes Gutterson's design for the wisteria arbor. Note the fountain is indicated with a note suggesting that the specific design would be added later.



These plans also include hardscaping features such as an "Tea House," which as noted above, did not survive.

The last contemporaneous record of the construction of the Sperry-McLaughlin and Marsh Houses appears in a 1927 article in the *Oakland Tribune* promoting recent work by Axel Cederborg in Piedmont and Berkeley.⁷ That the Sperry-McLaughlin and Marsh Homes were important additions to North Berkeley at the time is evidenced by the

⁷ "Fine Piedmont Residences by Cederborg," *Oakland Tribune*, April 24, 1927 (noting the construction cost for both homes was \$70,000).

contemporary press quoted above. Their construction proved that Berkeley was resilient and remained an attractive place to live despite the devastation of the fire. That alone makes them significant to the history and cultural context of this city.

The two houses remain key parts of the historic North Berkeley neighborhood filled with examples of the so-called second phase of Bay Area architecture. They were both recognized in the Berkeley Urban Conservation Study (see Appendix G) and were specifically called out in two tours sponsored by the Berkeley Architectural Heritage Association: one lead by Susan Dinkelspiel Cerny in 1979 entitled, “Henry Higby Gutterson: Residential Work in Berkeley,” and another in 1986 entitled “a Ramble ‘Round the Rose Garden.” They have additional significance historically, architecturally and culturally based upon the individuals and events with which they are associated, as described below.

2. HENRY GUTTERSON (THE ARCHITECT)

Henry Higby Gutterson, a graduate of both Berkeley High School and U.C. Berkeley, had a long and distinguished career as an architect in the Bay Area where he designed residences and public buildings. He was most closely associated in his early years with John Galen Howard and during his mature years with Bernard Maybeck. He was one of the practitioners of the Bay Area Style, with Julia Morgan, Bernard Maybeck, and John Hudson Thomas. Rather than jettison the old, Gutterson played with popular building styles such as English Tudor, English/Irish cottage, French Beaux Artes, Italian villa, Swiss Chalet and even some Flemish peaked roof styles.

His buildings, however, were far from slavish copies of these styles—far from it. Instead, he utilized a given style in service to the needs of his clients appropriate to the site and landscape. As one commentator put it, the thing that made a Gutterson creation unique was “the peculiar way of using historical forms and details, the complexity of forms and spaces, miniaturization, and fully exploiting the site as a major ingredient in creating romantic aura.”⁸ Another critic described the “Gutterson look” as being partially stucco with strong wood accents and classical revival detailing.”⁹ Heavily tiled roofs, diamond paned



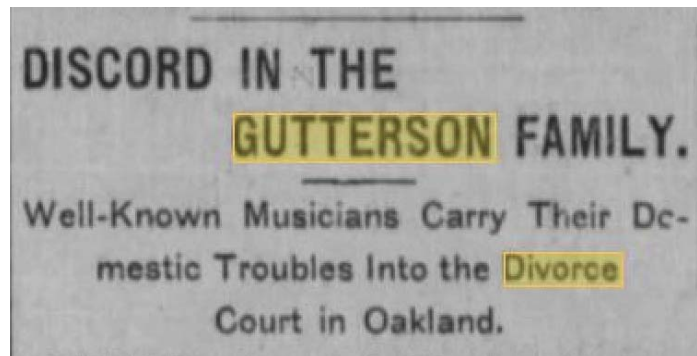
⁸ Woodbridge, Sally, 1988, *Bay Area Houses*, Gibbs Smith, Layton, Utah, page 16.

⁹ Stern, Susan Dinkelspiel, “Henry Higby Gutterson,” monograph, BAHA.

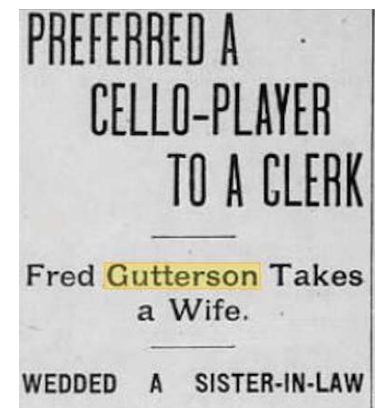
windows, and English style chimneys are also typical Gutterson touches. All these characteristics are present in the Hawthorne Terrace homes.

a. BACKGROUND AND EDUCATION

Gutterson was born in Minnesota on September 8, 1884. His father, Arthur Lincoln Gutterson, was a bank clerk, and his mother Minnie¹⁰ was a talented singer and music teacher. He had a sister, Geraldine. Arthur's younger brother Fredrick apparently came out to the Bay Area too where he lived with the Guttersons¹¹ and joined a local opera company as a cellist.



In 1898, when Henry was almost 14, Arthur filed for divorce against Minnie claiming abandonment. Once the divorce was final, Minnie married his brother Fredrick, causing quite a scandal and making headlines.¹² It appears that Gutterson and his father moved to a home on Virginia Street in Berkeley, and Henry attended Berkeley High School from which he graduated.¹³ (left: photo *San Francisco Call*, May 30, 1909)



¹⁰ Some biographies of Henry Gutterson state that his mother's name was Mary, however, her marriage record to Arthur L, shows her name as Minnie Higby, and a marriage date of Nov. 6, 1883.

¹¹ Arthur Gutterson and his brother Fredrick were listed in the 1896 voter rolls as living at 2365 Castro in Oakland. Gutterson's profession was listed as accountant; his brother's as musician. Later records show his mother "Mrs. AL Gutterson," as living with the two men with a daughter Grace in the Castro street home. A 1900 directory show all three Guttersons as employed in San Francisco: Mr. and Mrs. Fredrick Gutterson were teaching music on Post Street; AL Gutterson was working at a San Francisco Bank. In the 1900 census, Arthur was living with his sister in Alameda and lists his place of occupation "Book Keeper (Bank)."

¹² "Discord in the Gutterson Family," *San Francisco Examiner*, Aug. 8, 1898; "Preferred a Cello-Player to a Clerk, San Francisco Call, Mar. 11, 1899.

¹³ Stern, Susan Dinkelspiel, "Henry Higby Gutterson," monograph, BAHA.

It appears likely that the family encountered some financial difficulties. After high school, Gutterson studied at the Mark Hopkins Art Institute in San Francisco for approximately two years. When John Galen Howard started an architectural program at U.C. Berkeley in 1903, Gutterson enrolled. It appears that Gutterson may have paid his way through Cal by working as a laborer for the U.S. Customs Service in Oakland.¹⁴

When the Architecture Department was initially established, Howard was the sole lecturer.¹⁵ Although other faculty were eventually added, Howard was a key figure in Gutterson's early life. Not surprisingly, Gutterson was very influenced by his Beaux Artes Style and later subscription to the City Beautiful movement that Howard espoused.

Gutterson graduated in 1906 –one of the first to graduate from that department.¹⁶ Around the time of his graduation, Gutterson contributed drawings to the Burnham Plan for San Francisco, which was drawn up by landscape architect and city planner Daniel Burnham.¹⁷

After graduation, Gutterson sailed for France where he followed in Howard's footsteps and studied at the Ecole des Beaux Arts in Paris.¹⁸ As reported at the time¹⁹, Gutterson was one of 500 hopefuls who sat for the Beaux Arts entrance examination in 1907. Of the 500 who took the 14-hour examination, only half passed and of those only 65 ultimately were permitted to advance. Of this final group of 65, only 5



¹⁴ While he was enrolled at Cal, it appears that he may have been working too. The civil service list for US Customs in 1903 shows Henry H. Gutterson as employed on their rolls; a directory from 1905 also reflects him as working at a laborer for US Customs in Oakland. Further research is likely warranted to make sense of Gutterson's early life. Voter rolls from the time show his father lived at 2511 Virginia in Berkeley, which may be how he came to graduate from Berkeley High School. A 1904 directory supports this theory because it lists both Arthur L. and his son Henry as living in Berkeley.

¹⁵ "North Gate Hall (the Ark)," BAHA, available at https://berkeleyheritage.com/berkeley_landmarks/northgate_hall.html

¹⁶ "Student Honored at French School," *The San Francisco Call*, May 30, 1909. Note that reports about Gutterson's graduation year vary between 1905 and 1906, but the majority reflect 1906. A 1905 directory shows his mother and step-father/uncle as living on Virginia street, and his father as working in San Francisco with a residence in Alameda. Directories for 1914 onwards show his mother and step-father/uncle as living in the Los Angeles area. They are both buried there.

¹⁷ Burnham, Daniel, *Report on a Plan for San Francisco*, 1906, reprint by Urban Books, 197, page 211.

¹⁸ Stern, Susan Dinkelspiel, "Henry Higby Gutterson," monograph, BAHA.

¹⁹ *Oakland Tribune*, "Berkeley Society," Oct. 13, 1907; "Wins Honors Abroad," *The San Francisco Call*, Aug. 15, 1907.

were permitted to be foreigners. Gutterson was one, and ultimately studied there for two years.

While at the Ecole, Gutterson apparently did well. According to Gutterson scholar Susan Dinkelspiel Stern Cerny, Gutterson experienced financial difficulties while in Paris, and so had to return earlier than intended.²⁰



He returned to the United States from Paris in 1909 and worked for a short time in the New York area.²¹ Notwithstanding reports in the paper that he was going to settle in Los Angeles, Gutterson returned to the Bay Area in 1909. After returning to Berkeley, Gutterson taught architectural design at U.C. Berkeley for at least a year.²² According to the 1910 Census, he

was a boarder at 2500 Ridge Road. He lived for a time with his sister on Hillegass Ave.²³

Gutterson married Helen Arnett in July 1911. They lived first on Prospect Avenue²⁴, but moved to 2922 Garber Street in a house he designed in 1912.²⁵



(left: *San Francisco Examiner*, May 30, 1909; left: Gutterson Home at 2922 Garber, photo: R. Kehlmann, 2013)

²⁰ Stern, Susan Dinkelspiel, "Henry Higby Gutterson," monograph, BAHA.

²¹ Stern, Susan Dinkelspiel, "Henry Higby Gutterson," monograph, BAHA; *San Francisco Examiner*, May 30, 1909.

²² "Berkeley Society," *Oakland Tribune*, July 11, 1911. The Blue and Gold yearbook for 1912 lists him as an instructor.

²³ In 1910, the US Census listed Gutterson as living in an apartment at 2518 Hillegass Street in Berkeley, with his sister, Geraldine (born c. 1890 in CA). (The California Voters Register listed his address in 1910 as 2116A Hillegass Street.)

²⁴ 1911 Voter Registration List.

²⁵ <http://berkeleyplaques.org/e-plaque/henry-gutterson/>.

b. CAREER

A 1910 Directory shows Gutterson listed as a draftsman for J.J. Donovan in Berkeley. By the next year he apparently joined Howard's San Francisco architectural firm.²⁶ Four years later, Gutterson opened his own firm, although he continued to work closely with Howard with whom he worked on the 1915 Panama-Pacific International Exhibition. Gutterson initially maintained an office in San Francisco, but eventually moved that office to Berkeley. His was one of the only firms at that time to employ women architects.²⁷

The first homes Gutterson designed in Berkeley evidence his design flexibility: one is a brown shingle house on Berryman and the other a "stucco and wood chalet" on Tunnel road. Both date to 1914.

(photo right: Howard House at 2044 Berryman; photo EBRD; photo below CED)

Around that same time, he designed two of his more famous early houses, the Sophie McDuffie House and the Charles Mallory Dutton House (shown below).



Of these, Susan Dinkelspiel Cerny wrote, "Both were designed and constructed from 1914 to 1915 and have unusual site specific floor plans that treat the garden as an extension of the house."²⁸ Gutterson's site specific

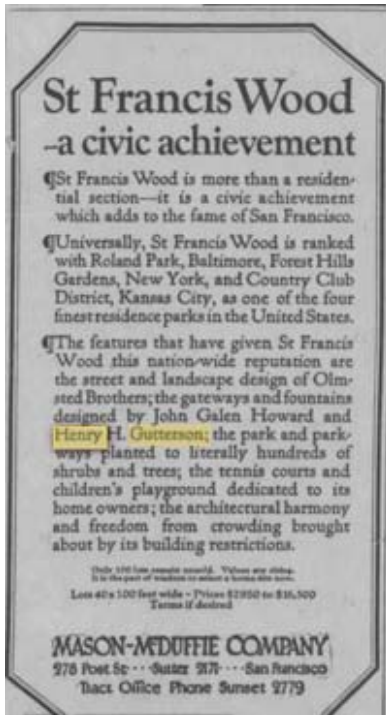
plans and integration of the garden into his houses became the hallmark of his residential design. During this period, he also designed the Eleanor Smith House and cottage (Berkeley Landmark #36) (House since demolished).

²⁶ <https://archives.ced.berkeley.edu/collections/gutterson-henry>

²⁷ Gertrude Elizabeth Comfort Morrow (Cal BS 1914; MS 1916) was one of those listed as working for him in 1916. See also, <http://berkeleyplaques.org/e-plaque/henry-gutterson/>;

²⁸ Cerny, Susan Dinkelspiel, "Henry Gutterson," *Towards a Simpler Way of Life*, University of California Press (1997) (Robert Winter, ed.) at 74.

Around 1912, his mentor Howard was commissioned by developers Mason-McDuffie to develop a parcel that came to be known as St. Francis Woods in San Francisco. The project was part of what is sometimes referred to as the "City Beautiful" movement, which was brought to San Francisco by Daniel Burnham after the 1906 earthquake.²⁹ (Of course, Gutterson had contributed drawings to this plan while in college). Four years after Howard was hired to work on St. Francis Woods, Gutterson joined Howard on the project (1916).



Because the development was intended to be park-like, Madison-McDuffie retained the Olmstead Bros. firm of landscape architects – owned by the sons of famed landscape architect Fredrick Law Olmstead -- to design the grounds. Notably, Howard and Fredrick Law Olmstead had collaborated previously on the Hearst Plan for the University of California (Berkeley). As with the much earlier plan for the campus, the plan for St. Francis Woods featured a picturesque layout with ample open space and garden features that made the most of – and paid attention to-- the area's natural topography. The property was designed along the lines of Forest Hills in New York: a lush green parkland with unique homes for the well-to do middle class. The homes had a minimum construction cost of \$6000 and had strict design criteria.³⁰ By

1925 (around the time 1450 was constructed), St. Francis Woods was home to over 500 families. When Howard stepped aside, Gutterson became supervising architect, a position he held until his death in 1954.

(left: photo Joe McCarville)



The photo above of one of Gutterson's designs in St. Francis Woods illustrates how Gutterson paid careful attention to the landscaping as well as the house design, integrating the two into a whole.

²⁹ Wilson, Mark, "Mason-McDuffie and the Creation of St Francis Wood," *The Argonaut*, San Francisco Historical Society, Fall 1997.

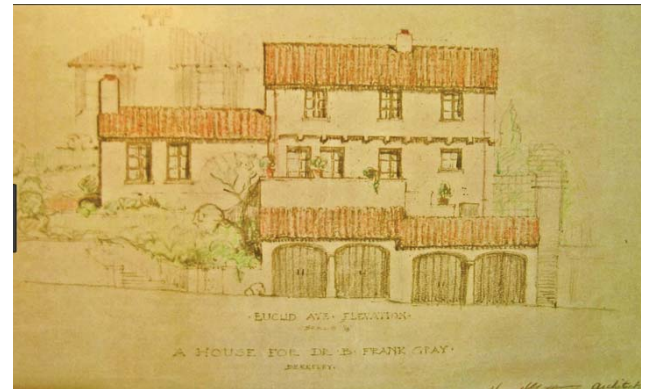
³⁰ *Id.*

According to Mary Brown, San Francisco's Preservation Planner, during World War I, Gutterson "enlisted in war camp service."³¹ Gertrude Morrow, whom Gutterson had employed after her graduation from Cal's Architecture Department, took over Gutterson's St. Francis Wood work for the duration.

After the War, Gutterson was extremely busy and productive. As one Gutterson scholar explained:

He taught briefly at UC Berkeley from 1920 to 1921, was the supervising architect of St. Francis Wood, and took on independent commissions in San Francisco, Berkeley, and Oakland. Not only did he assist Maybeck in Berkeley on two important commissions – Rose Walk and the Sunday School addition (1927) to the First Church of Christ, Scientist (Maybeck, 1910) – he "found time to design a 5,559 square foot mansion in Carmel for Paul Flanders, called the "Outlands" in 1925 (which is on the National Register of Historic Places), and he supervised Flanders' subdivision in Carmel, called Hatton Field.³²

As noted, Gutterson continued to design residences in Berkeley in addition to his commissions at St. Francis Woods.



(2910 Garber St. Photo: Richard Grant; drawing: CED archives)

In around 1922 he returned to Cal as a lecturer,³³ but it seems doubtful that he abandoned private practice given his plethora of projects.

³¹ Brown, Mary, "San Francisco Modern Architecture and Landscape Design 1935-1970: Historic Context Statement," Final Draft, September 2010, at 240-41.

³² Brandi, R. "Henry H. Gutterson, Supervising Architect of St. Francis Wood," 2007, available at <http://outsidelands.org/gutterson.php#1>;

³³ A directory of that year shows his occupation as instructor at U of C.

Gutterson's mature designs in Berkeley from this time – which include the Sperry-McLaughlin House and Marsh House – display his conviction that the garden and landscape should be integrated into the home. As Susan Cerny noted, "Gutterson's homes today blend into the gardens that surround them. Often hidden amongst now mature trees and shrubs, they are the homes that one passes with the feeling that they are retreats from the otherwise hectic world."³⁴



Another Gutterson scholar, architectural historian Richard Brandi, describing Gutterson's integration of natural landscapes, wrote, Gutterson "treat[ed] the garden as an extension of the living room."³⁵ "Gutterson's penchant for incorporating the garden into his homes is seen in the provision for the living room to open to the garden through the three sets of doors."³⁶

The photo of the Sperry McLaughlin

House above illustrates how Gutterson quite literally opened the home to the outdoors. (photos courtesy of BAHA). Gutterson's integration of landscaping with his residential design was recognized in 1927 when the American Institute of Architects gave him an award, noting, "we wish to commend the garden treatment about these buildings, which was so successful in keeping with the architecture."³⁷

Given how important the landscape was to his designs, it is no wonder that Gutterson collaborated with the most talented landscape architects of the day, including Fredrick Law Olmstead and, later, Olmstead's sons, and Thomas Church.³⁸



³⁴ Stern, Susan Dinkelspiel, "Henry Higby Gutterson," monograph, BAHA.

³⁵ Brandi, R. "Henry H. Gutterson, Supervising Architect of St. Francis Wood," 2007, available at <http://outsidelands.org/gutterson.php#1>; see also Cerny, Susan, "Gutterson," *Towards a Simpler Way of Life*, (Winter, Robert, ed.), University of California Press (1997) at 73- 78.

³⁶ *Id.*

³⁷ Architect and Engineer, June 1927, Honor Awards of Northern California Chapter AIA, page 39

³⁸ Brown, Mary, "San Francisco Modern Architecture and Landscape Design 1935-1970: Historic Context Statement," Final Draft, September 2010, at 35.



The photo at left shows Gutterson (far left), landscape architect Butler Sturtevant and interior designer Ivy Capitola who spoke together at the Sixth Annual California Spring Garden Show. Gutterson frequently spoke at events with popular landscape architects at the time.

Some of Gutterson's most well-known Berkeley residences are the houses along nearby Rose Walk, across from the cottages designed by Bernard Maybeck. The residences, which are now landmarked, are in a Swiss Chalet style with strong heavy tiled roofs and prominent chimneys. As with his other designs, they sit in a designed landscape that is of a piece with the homes. (Photo: Danielle Thompson) They are Berkeley

Landmark # 165.

Although at the outset of his career, Gutterson was closely associated with John Galen Howard, as his career matured, he worked with other distinguished architects most notably Bernard Maybeck. He assisted Maybeck with the First Church of Christ Science in Berkeley (Berkeley Landmark #5) and took over from Maybeck the large project at Principia College in Illinois, which is landmarked (NR # 93001605).

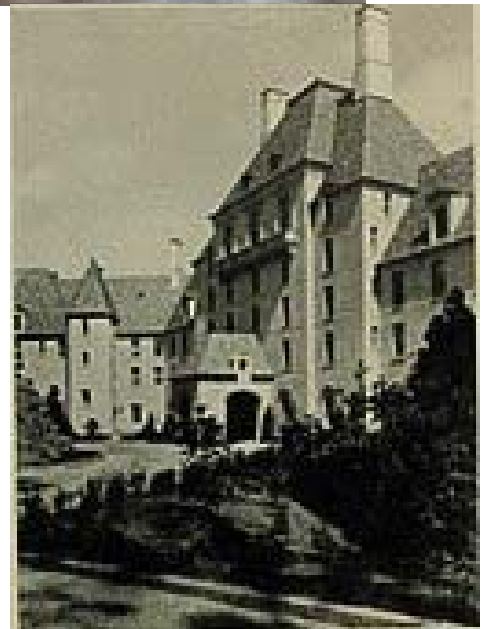


Gutterson's solo church projects include the Second Christ Science Church on Spruce, which is still standing, and another Christian Science Church in Santa Barbara that has been landmarked. Gutterson was himself a Christian Scientist.

Gutterson designed Old Jefferson Elementary School on Rose Street (Berkeley Landmark # 117); the theatre at his alma mater Berkeley High, which has landmark status. (Berkeley Landmark #179). In Berkeley he also the Vedanta Society, Berkeley Civic Center Fountain and Park (Berkeley Landmark # 202), and Berkeley High School's Shop and Science Buildings (as well as its Community Theater). He designed a retirement home (Arden Wood) in San Francisco and several in Marin County.



(Above: Berkeley Community Theater, Berkeley Landmark #179; photo by Daniella Thompson; below, Arden Wood, SF: photos *Architect and Engineer* (1930)



Photos of Flanders House, Carmel; source: Nat'l Registry of Historic Places



The Flanders House, which is landmarked (NPS #89000228), bears a striking resemblance to the Sperry-McLaughlin house in form, although not building materials (as the Flanders House is not stucco). Like the Sperry-McLaughlin House, the Flanders House has a long central structure with a terracotta tile steeply peaked roof -- specifically, Gladding McBean & Company's "Berkeley" trough ceramic tiles fired in a russet color and laid irregularly -- featuring dormers at regular intervals. As does the Sperry-McLaughlin House, the Flanders House is sited very specifically to take maximum advantage of the natural contours of the site.

During this period of great professional success, Gutterson suffered a strange physical attack. In November 1925, Gutterson was almost killed when one of his clients -- the owner of an apartment building that Gutterson was working on -- came

to his San Francisco offices and shot Gutterson and two employees.³⁹ Gutterson and the others survived but the gunman did not; he shot himself. At least one historian has commented that this violent experience rattled Gutterson to such an extent that he turned away from design towards more involvement in public service.⁴⁰

c. PUBLIC SERVICE

Gutterson was not only an active architect, he was also active locally and nationally in community and government programs. He served on the Berkeley Planning Commission (1934-36), the State Board of Architecture (1929-34) and was active in local and national architectural trade associations. He co-founded and was president of the Berkeley Planning and Housing Association, was a director of the State Association of California Architects, and was president of the local chapter of the AIA (American Institute of Architects).⁴¹ In 1945, the AIA gave him an award for unification of the profession.⁴²

During World War II, he was the executive director of the USO's Western Operation⁴³, and traveled widely to promote its agenda and locate facilities for the USO. In this capacity, Gutterson was also in charge of overseeing the location and construction of facilities for the Jewish Welfare League, apparently for refugee resettlement.⁴⁴

d. LEGACY

Since his death in 1954, the quiet brilliance of his design has been recognized repeatedly in books, articles, architectural tours, and landmark designations. Known projects that have received landmark or other recognition include the Flanders Mansion in Carmel, the Camp Fire Girls' Headquarters in San Francisco, and the Principia College in Illinois, all of which are listed on the National Register of Historic Places.

Gutterson by all accounts was not prone to self-promotion, and it is possibly for this reason that he is not better known. He wrote but not widely or prolifically. His designs, particularly his residential designs, tended to handsome and livable rather than flashy or groundbreaking. Nevertheless, his legacy has endured not the least of which because of how comfortable and handsome they are. When one lives in a Gutterson house, one grows to love the house deeply.

³⁹ "C.M. Moore Shot In Arm By Crazy Man," *San Francisco Call*, Nov. 28, 1925.

⁴⁰ Brandi, R. "Henry H. Gutterson, Supervising Architect of St. Francis Wood," 2007, available at <http://outsidelands.org/gutterson.php#1>;

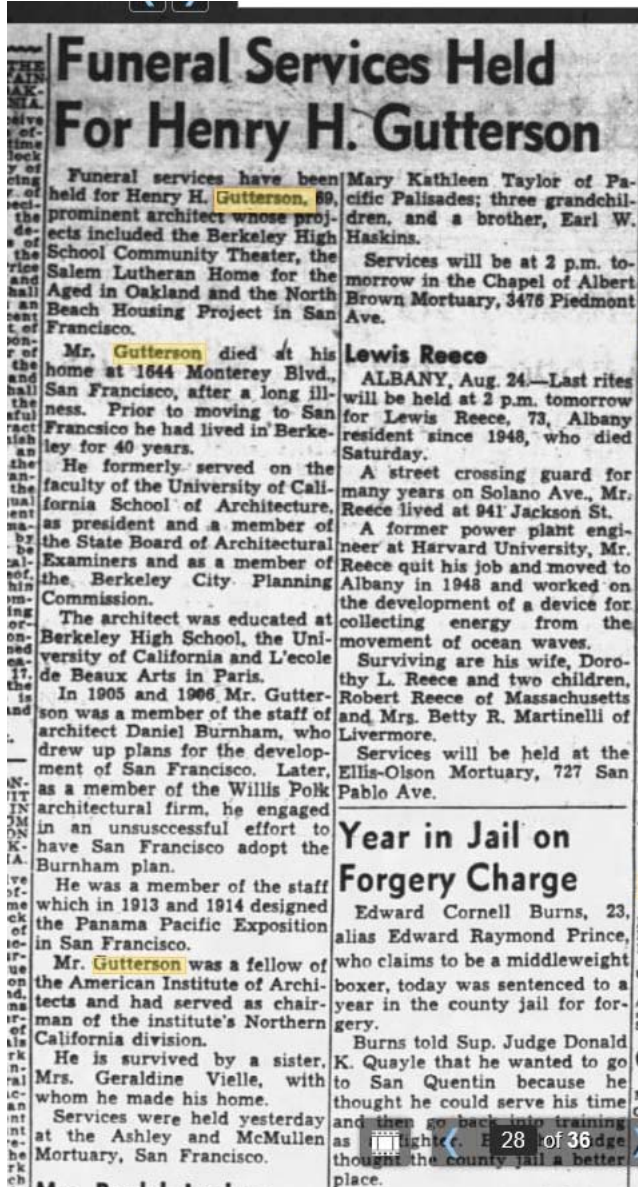
⁴¹ <https://www.aiaa.org/page/presidents>

⁴² <https://archives.ced.berkeley.edu/collections/gutterson-henry>

⁴³ "New USO Chief to Arrive Tomorrow," *Oakland Tribune*, June 24, 1944.

⁴⁴ Numerous letters exist to Gutterson at the USO regarding his assistance for locating facilities for refugees.

For fun, Gutterson loved to sail on the San Francisco Bay. Around the time he designed the Sperry-McLaughlin House, he had a boat named, "The Imp," that he sailed out of the St. Francis Yacht Club in San Francisco. Given his love of sailing the Bay, he surely would have been a great fan of Sylvia McLaughlin's efforts to save the Bay in the decades following his death in 1954.



3. MABEL SYMMES (PIONEERING FEMALE LANDSCAPE ARCHITECT)

a. BACKGROUND AND EDUCATION

Mabel Symmes was born August 1, 1876, to Frank and Anne Symmes. Frank Symmes was a prominent businessman in San Francisco, which is where Mabel and her brothers and sisters grew up. Mabel was a good student and made the honor roll throughout her early years. After high school she enrolled at U.C. Berkeley, from which she graduated in 1896 (with classmate Julia Morgan).



(Left: Mabel Symmes – 1921 Passport photo taken 2 years before she designed the 1440-1450 Marsh-Sperry Garden)

Not much is known about Symmes's college years other than that she was a member of Kappa Alpha Theta,⁴⁵ but her post-college life is better documented and shows that it was initially filled – as was typical for young ladies of the period – with parties, trips, and other social activities. She associated with the Wheeler and Hearst family during this time. The only recorded work history from this period is a note that she taught Sunday School at a church in San Francisco. Her travels took her to Hawaii, Europe, and Tahiti.

Although her older sister married well – to business owner Alston Blake – Symmes never married. Independently wealthy and financially astute⁴⁶, Symmes chose to re-enroll at Cal in 1914 to study landscape architecture right after the school established that department.⁴⁷ That department was established thanks to the generosity of Phoebe Apperson Hearst, who helped establish the Architecture Department some 10 years earlier.

⁴⁵ *California Historical Society* Blake [insert cite]

⁴⁶ Mai Arbegast, "Mrs. Blake and the Garden in the 1950s," an oral history conducted in 1986 by Suzanne Riess, in *Blake Estate Oral History Project*, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1988, at 280.

⁴⁷ Mai Arbegast, "Mrs. Blake and the Garden in the 1950s," an oral history conducted in 1986 by Suzanne Riess, in *Blake Estate Oral History Project*, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1988, at 273.

The Landscape Architecture Department was initially known as “Landscape Gardening and Floriculture,” and was part of the College of Agriculture when it was first approved by the Regents on January 1, 1913.⁴⁸ The head of the college, Thomas F. Hunt, selected John W. Gregg to lead that department.⁴⁹ When Gregg began teaching at Cal, the field was a comparatively new one: ASLA was founded in 1899 and Harvard was the first University to graduate students with degrees in 1901. At the time, there were very few landscape architects based in the Bay Area.



After he joined the University, Gregg brought over pioneering California horticulturalist Katherine Davies Jones (1860-1943), who was already teaching courses at Cal on the selection of plants suitable for California’s soil and climate. Jones (photo above: CED archives) eventually became the Department’s resident botanist. Mabel Symmes had been a classmate of Professor Jones – both graduated from Cal in 1896⁵⁰ -- and joined in 1914 as a “non degree student” of the department. Symmes was close to Jones⁵¹, and when Jones died at 86, she bequeathed her records to the University and specified that Mabel Symmes complete the book she was writing on landscape design.⁵² After her death, Symmes wrote a monograph about Jones.⁵³

⁴⁸ Laurie, Michael, *75 Years of Landscape Architecture at Berkeley: An Informal History Part I: The First 50 Years*, 1988, at 4.

⁴⁹ *Id.*

⁵⁰ Arbogast, *supra*, at 275.

⁵¹ Arbogast, *supra*, at 275.

⁵² “UC. Botanist Wills Writings,” *Oakland Tribune*, March 5, 1943.

⁵³ Symmes, Mabel, “Katherine Davies Jones,” *Madrono*, April 1946.

Given the small size of the classes at that time, Symmes must have known Willa Clair Cloys Carmack who graduated in 1915 (getting her diploma in 1916) and went on to become a very well-known Bay Area Landscape Architect (see article below). She also knew Harry Shephard (undated photo at right: CED archives), who was a classmate and eventual professor in the



department. It is not known for how many years, Symmes studied under Gregg and Jones, or when she began taking private commissions.

b. CAREER

Mabel Symmes was commissioned to design residential gardens throughout the East Bay.⁵⁴ The Marsh-Symmes garden is likely one of her earliest commissions. By far her most famous project was the landscape design for Blake House.

In 1921, Symmes lived on Piedmont Avenue in Berkeley, likely with or near her sister Anita and brother-in-law Anston Blake. The Blakes were displaced by the University in 1922 when the University acquired land through eminent domain to construct the football stadium.⁵⁵ Rather than purchase new property, the Blakes decided to build homes on land that they had previously acquired in a remote area now known as Kensington. That land was divided between Anston Blake and his siblings. Anston decided to build houses for himself and another for his mother and other relatives on two of the parcels. His house became what is known as Blake House and was eventually bequeathed to the University where, as noted above, she lived with Anston Blake and her sister Anita, who was an avid botanist.

⁵⁴ Linda Haymaker, "The Historical Validity of Blake Garden," an oral history conducted in 1986 by Suzanne Riess, in *Blake Estate Oral History Project*, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1988, at 365; see also Mai Arbegast, "Mrs. Blake and the Garden in the 1950s," an oral history conducted in 1986 by Suzanne Riess, in *Blake Estate Oral History Project*, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1988.

⁵⁵ Riess, Suzanne, "Interview History," *Blake Estate Oral History Project*, University History Series, Bancroft Oral History Library, 1988.

Symmes designed the key features of Blake Garden, including the reflecting pools, water features and formal rose gardens.⁵⁶ Her friend Katherine Jones assisted with tree selection. Among other things, Jones provided Mabel Symmes with seeds for Chilean Soap-bark trees (*Quillaja Saponaria*) – trees that Symmes also planted in the Marsh-Sperry Garden and that remain there to this day.⁵⁷ Mrs. Blake loved to collect and propagate plants, some of which were planted in the garden. Mabel Symmes by contrast was more taken with the overall concept of landscape design than creating a hodgepodge of plant varieties. Of course, both Blake House and the Hawthorne Terrace homes featured non-native varieties, but they did so as an integrated whole rather than as individual specimen plants.

Symmes' design for Blake Garden exemplified what commentators at the time were espousing, namely formal gardens interwoven with tamed but still rugged natural landscapes that molded to the existing natural hill structure.



According to Linda Haymaker who worked in Blake Garden for years and has written and spoken about it, Symmes promoted the unique topography of the site, rather than change it.⁵⁸ “She also did things – this is sort of the flip-flop of her design ability: she was able to create this formalistic effect

exceedingly well, but then you watch what she did down in the canyon area, and you see how she has this whole naturalistic system down through there.”⁵⁹

(Photos of Blake House Rose gardens c. 1958, CEB archives and Blake House Blog)

⁵⁶ Mai Arbegast, “Mrs. Blake and the Garden in the 1950s,” an oral history conducted in 1986 by Suzanne Riess, in *Blake Estate Oral History Project*, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1988, at 276.

⁵⁷ Symmes, Mabel, “Adelante,” *The Journal of the California Historical Society*, at 216.

⁵⁸ Haymaker, at 369.

⁵⁹ *Id.*



If you could say there's two sections of the garden that you really must preserve in their intended way, it would be the formal garden and the redwood canyons.

– Linda Haymaker, “The Historical Validity of Blake Garden”



You can see the structure of the garden as laid out by Miss Symmes. It hasn't been changed, but you can see the various axes that Miss Symmes laid out that are all linked: from the front of the house looking east towards the grotto, or the reflecting pool; looking straight north there's a kind of a circle; and then there's a reservoir and a series of circles with dancing figures etc. On a plan it has a very Italiante look. . . . All the redwoods were cuttings taken from the redwood trees which were where the University stadium is now.

■ Mai Arbegast (1986)

Symmes also designed the gardens for the Charles Merrill House in Orinda (NRI No. 05000251).⁶⁰ The gardens there show the same integration of formal areas containing flowering shrubs, lawns and water features, with more natural wooded areas with winding paths and natural Berkeley Rhyolite rock walls.

(Photos: National Landmark Preservation files for Charles Merrill House and Gardens)



The landmarks preservation form prepared by Dr. Robert R. Weyeneth, Department of History, University of South Carolina, states:

“Ratcliff worked closely with **landscape architect Mabel Symmes** to fashion a setting that joined the residence with its rustic hillside setting. In this way, house and grounds were designed from the beginning to complement one another. Attention turned to designing the grounds even as the site was prepared, the system of stonework terraces erected, and the house itself constructed.”

This sensitivity to site is evident in the Marsh-Sperry Garden, as is her use of local materials. Several Bay Area landscape architects and architects used these local materials in their designs. Mabel Symmes certainly did so at Blake House, the Charles Merrill House, and the Hawthorne Terrace gardens.

⁶⁰ Charles Merrill house is listed on the National Registry of Historic Places. <https://npgallery.nps.gov/AssetDetail/NRIS/05000251>.

The photo below shows the rock wall on the Southern Exposure of the 1450 property along Vine Lane (with original wood saloon door).



In the twenties I believe there was a strong new phase in garden development – I think it was probably allied with this arts and crafts style that was happening in California then, during the twenties – a returning to the native material and locally crafted arts, exploring the natural beauty that hopefully would be existing in the area.

Linda Haymaker, Blake Garden Oral History, 1987

Although Symmes was part of the region's burgeoning landscape design esthetic, it is important to remember how pioneering she was. She was absolutely at the forefront of professional working women at a time when females born to well-to-do families were not expected (indeed were often actively discouraged) from engaging in a profession. According to Mai Arbegast (1922-2012), a professor and landscape architect in Berkeley who knew Symmes in her later years, Symmes and her contemporaries were underappreciated: "[T]here were quite a number of other women practicing in the area at the time [1920s] . . . Women don't practice in a way that they are noticed, you know, they're working quietly behind the scenes."⁶¹ Linda Haymaker, who worked at and wrote about Blake Garden, observed:

I think she was a really bright woman. I think she probably worked a lot by herself. . . . I don't think she promoted herself at all. I think she had enough means through the family and through colleagues to get work to do certain thing as a designer within the region and to stay busy in this field of work. I think a lot of it – her low profile – was probably because she was a woman, but I think part of it also was that she . . . chose to go about a quiet way of designing.⁶²

⁶¹ *Id.*

⁶² Linda Haymaker, "The Historical Validity of Blake Garden," an oral history conducted in 1986 by Suzanne Riess, in *Blake Estate Oral History Project*, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1988, at 365.

By the 1930s, Symmes’s design for Blake Garden was becoming well-known and tours were organized by local groups to visit it.⁶³ Blake Garden was divided before the property was deeded to the University. One parcel was sold to the Catholic Church, which used it to as a Carmelite monastery. The nuns who lived there so enjoyed



the gardens that were on that property, they sought and obtained papal recognition for Mabel Symmes and her sister Anita. By the time that she died in 1962, however, landscape design (and the feminist movement) had changed dramatically and her passing unfortunately received no media attention.



(article above, Berkeley Gazette, June 30, 1931; photo: Mabel Symmes, undated, Blake collection)

Unfortunately for us, few of Symmes’s gardens have survived. According to Arbogast, one close to campus was destroyed to make way for an apartment building.⁶⁴ There are additional references to work by Symmes in the Claremont area; however, none are known to have survived intact.⁶⁵ Of the

three preserved Symmes gardens – Blake Garden, Charles Merrill House Garden, and the Marsh-Symmes Garden at 1450 & 1440 Hawthorne Terrace – the first is

⁶³ See, e.g. "Eastbay Rose Club Formed," *Oakland Tribune*, Oct. 16, 1932; "Arlington Club Plans Tour," *Oakland Tribune*, May 20, 1945.

⁶⁴ Mai Arbogast, "Mrs. Blake and the Garden in the 1950s," an oral history conducted in 1986 by Suzanne Riess, in *Blake Estate Oral History Project*, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1988, at 281.

⁶⁵ Interestingly, the University also initially did not fully appreciate Blake Garden when the property was promised to the University; at least until Dr. Gardener – a long time resident of the Gutterson house directly across from 1450 Hawthorne Terrace – came on the scene. *Id.* at 288.

preserved by the University, the section is a landmark, and the third is presently unprotected.

4. AXEL CEDERBORG (BUILDER)

During the 1920s when Sperry engaged him to build the twin houses on Hawthorne Terrace, Axel Cederborg (also known as Alex) ran a booming business as a builder out of his Oakland home at 1455 Excelsior Avenue. He specialized in large residences in Berkeley⁶⁶ and Piedmont as well as some commercial projects. During an earlier period, his company was called Cederborg & Anderson.⁶⁷ It is not clear when that business

name changed.

His ads ran in the *Oakland Tribune* (right) and *San Francisco Examiner*.

Cederborg, born in Sweden in 1885, was one of many prosperous Swedes who made the Bay Area home⁶⁸ around the turn of the 20th

⁶⁶ These include 924 Arlington,
⁶⁷ Building and Engineering News, Volume 16, Issue 1, p. 29.
⁶⁸ <http://www.nordstjernan.com/news/people/7768/>

Century, such as Erik Oolf Lindbloom, the Oakland tailor who struck gold and built a mansion at Hillegass and Parker in Berkeley and built and owned the Claremont Hotel,⁶⁹ and others who hired Julia Morgan to design their church in Oakland.

Like Lindbloom, Cederborg was a key figure in many turn-of-the century buildings in Berkeley, including the Madison McDuffie Building, described above, and a multitude of homes in the Claremont and North Berkeley areas.

Cederborg specialized in utilizing the highest quality materials and finishes and even employed new “fire proof” building materials and techniques in his buildings. Therefore, it is hardly surprising that Sperry hired him to build his homes in 1924 after the Berkeley fire. Cederborg died in 1935.

Oakland Tribune APRIL 28, 1929

NEW MASON McDUFFIE CO. BUILDING

In New Home

This structure, built by A. Cederborg at Shattuck avenue and Addison street in Berkeley, will be occupied on May 1 by the Mason McDuffie company. Below, Duane McDuffie, right, president, and Froy T. Tompkins, vice-president. The building carries some fine examples of architectural wood-work from the mill of Lammson Brothers.

SOUND MOVIES AND EUROPEAN MARKETS

The rapid development of the sound picture and talking time by American producers has brought about competition in the European market, according to Trade Commissioner George H. Kent, in a survey which has just been issued by the Commerce Department. Because of the huge expense involved in installing the necessary apparatus, it is a question, Kent states, as to how many of these sound picture European countries will accept. The open question indicates that only the largest of the European foreign nations will be able to do so during the current year. European exhibitors take a far greater than the usual importance of American pictures being their present dominant position from the quality standpoint at least. For the most part these talking films can be shown in Europe only on silent pictures, except in Great Britain, where some theaters are now wired and where the language difficulty will not be serious. In most cases, it can be predicted that without changing the talking picture will appear stand-up, a situation which will probably result in favor of European silent films. However, there is little possibility

of American pictures being their present dominant position from the quality standpoint at least.

Plastering for the Mason McDuffie

61 of 102

Cederborg, Building Contractor, Dies

Axel G. Cederborg, 53, building contractor, died at his residence at 1455 Excelsior Boulevard last night following a lingering illness.

Cederborg, a native of Sweden, was prominent in Swedish church activities in Oakland, holding the secretaryship of the Swedish Mission Church for 20 years. He is survived by his wife, Hilma; two sons, Chester G. and Edward; and two daughters, Esther and Marilyn. Services will be held at 3 p. m. Saturday and will be conducted at the Truman mortuary. Interment will be at Mountain View cemetery.

⁶⁹ Muriel Nelson Beroza, "The Lucky Swede," *Nordstjernen*.

SIGNIFICANCE OF PROPERTY

1. JAMES C. SPERRY: "MAN WHO SAVED THE REDWOODS"⁷⁰

a. FAMILY

James Cameron Sperry (b.1874) was the son of James L. Sperry, a successful businessman in Northern California, and his wife Mehitable, a poet. James L. Sperry's brother Willard ran the family business, Sperry Flour Mills, in Northern California.⁷¹ James L. was a large land owner and hotel operator in Calaveras County. His acquisition of property there roughly coincided with the start of the Gold Rush, and as his hotels were on a popular trail from Nevada, his business prospered. By the 1850's, James L. Sperry owned and operated the Sperry and Perry Hotel (a/k/a Murphy's Hotel) with a partner (Perry) in Murphys, California.



Eventually he also acquired the Mammoth Grove Hotel (a/k/a Mammoth Trees Hotel). Many notable figures stayed at the hotels including Mark Twain (Samuel Clemens), John J. Astor, John Muir, John Bidwell, Charles Bolles (a/k/a Black Bart), Henry Ward Beecher, Horatio Alger, JP Morgan, and Thomas Lipton. Murphys Hotel is landmarked: NPS-1971000134; NRI 71000134; and CA Historic Property No. 267; Murphys community is CA Hist. Ppty. No. 275.



(Above left: James L. and Mehitable Sperry; above, Murphys Hotel; below left Mammoth Hotel. Photos courtesy of the Calaveras Historic Society)

⁷⁰ Headline of his obituary. See page 75.

⁷¹ Obituary, Sacramento Daily Union, vol. 92, No. 39, Sept. 29, 1896.

The big trees—giant sequoias (*Sequoia Dendron giganteum*) – which were discovered a few years before James L. came to the area, became an international sensation drawing tourists from far and wide to Sperry’s hotels.⁷² James L. Sperry purchased land around his hotels containing undisturbed groves of sequoias called the Calaveras Big Tree Grove, for \$500.⁷³ The famous Pioneer Cabin Tree (a/k/a the Tunnel Tree), which was located in that park until it fell in 2017, was cut through at James L. Sperry’s request so that tourists could pass through it.



[The Pioneer's Cabin and Pluto's Chimney - Big Tree Grove, Calaveras County"](#) (Albumen Photograph). Library of Congress. 1866. Retrieved January 9, 2017.

James L. Sperry worked hard to preserve them. John Muir recognized James L. Sperry’s efforts to protect his unique trees: “[T]he Calaveras Grove for forty years has been faithfully protected by Mr. Sperry . . . and still is in primeval beauty.”⁷⁴

After his partner Perry died in James L. Sperry gained another partner, French aristocrats, when Perry’s widow sold them her shares in the hotel.⁷⁵ Sperry and his new partners had a falling out, and litigation ensued all the way to the United States Supreme Court. Sperry was eventually ordered to sell the Big Tree Grove property. However, his brother (the owner of the flour company) stepped in to buy the grove

⁷² <http://www.calaverashistory.org/article/big-tree-cottage-area>; <http://www.calaverashistory.org/post/murphys-big-trees-road>

⁷³ Kramer, Carol, California Big Trees, California Big Trees Historic Association publication.

⁷⁴ Muir, John. Undated writings published in Sierra Club Bulletin, vol. XI, No. 1-January 1920.

⁷⁵ Kramer, Carol, California Big Trees, California Big Trees Historic Association publication.

and restore it to the family.⁷⁶ The Big Trees State Park, founded in 1931, is located there now.⁷⁷ The Murphy's Hotel is, as indicated above, a landmark.

James C. Sperry grew up in Murphys, California, and spent the summers with his family at the Mammoth Hotel, which they managed between 1871 and 1892.⁷⁸ He quite literally grew up amongst the big trees. His father sold the Murphys Hotel to Perry's widow, but the Mammoth Hotel (shown below) remained in the family and was eventually (by 1900) operated by James Cameron's sister Marion (who also acted as postmistress). Marion Sperry hosted John Muir when he came to visit the sequoias in 1900.

Photo courtesy of Calaveras historical society.



In the 1890's James L. Sperry, who could no longer pay for the grove's maintenance, tried to interest the government in acquiring the Big Tree Grove at a steep discount in the hopes of preserving them as parkland for future generations.⁷⁹ He did not realize his dream because the U.S. Congress approved the purchase but failed to fund it, so it fell to his son James Cameron Sperry to fight for their preservation in the 1920s. In the meantime, on February 25, 1900, the *San Francisco Chronicle* published an article under the headline, "The Calaveras Big Trees: Cry of Alarm from California that the Entire Grove May Be Sold and Cut Down for Lumber," which was picked up by the national press. Despite much lamentation, no one stepped up to fund its donation to the park service, and ownership passed in the early 1900s to Robert Whiteside, who promised Sperry not to cut down any trees. James L. and Mehitable retired to Berkeley.

⁷⁶ *Id.*

⁷⁷ http://www.parks.ca.gov/?page_id=551

⁷⁸ Kramer, Carol, California Big Trees, California Big Trees Historic Association publication.

⁷⁹ Kramer, Carol, California Big Trees, California Big Trees Historic Association publication.

Around the time his father was trying to sell his land to the federal government, James C. Sperry left the area to attend U.C. Berkeley, where he focused his studies in the sciences. He participated in the then-well-known archeological expeditions lead by Berkeley Professors to gather fossils in the Pacific Northwest.⁸⁰ In 1902, when his father died, James Cameron was described as a “recent” graduate of the University.⁸¹

b. CAREER

Little is known about how James C. Sperry spent his first few post-graduate years employment wise, but he seems to have remained in Berkeley. His obituary reported that he was a retired mining engineer. By the 1920s he had secured a position as an executive with Magnavox.



Magnavox was one of the first California Tech Start Ups.⁸² At a facility in Napa, around 1911, the founders of the company discovered a way to magnify sound dramatically via a speaker system. The product came to be known as the “moving coil” horn loudspeakers because of its shape. (Photos, Oakland Wiki).



When Sperry was an officer in the 1920s, the Magnavox manufacturing plant was located at 2725 E. 14th Street in Oakland. It manufactured the loudspeakers, European style telephones, and other small electronics.⁸³ In 1923, Magnavox engineers developed the

⁸⁰ “Students Leave on Exploration Trip to Oregon,” *San Francisco Call*, May 10, 1900.

⁸¹ “Death Calls James L. Sperry, Once Owner of Big Tree Grove,” *San Francisco Call*, vol. 87, No. 66, Feb. 4, 1902.

⁸² https://www.radiomuseum.org/dsp_hersteller_detail.cfm?company_id=2789.

⁸³ http://www.antiqueradio.com/Sep07_Eckland_Magnavox.html.

world's first personal sized radio, described as follows by the Magnavox Historical Association:

In 1923, Magnavox invented the world's first single-dial radio. The radio, TRF-5, is shown with the R3 speaker. The set used 2 RF and 2 Audio amplifier (type A) tubes, plus 1 detector tube (type D), A&B batteries and covered the AM broadcast band.



(photo courtesy of the Magnavox Historical Society). Sperry's executive role increased over time. He was vice-president in 1922⁸⁴, treasurer in 1923⁸⁵, and later became president. On November 22, 1928, the *Oakland Tribune* reported that J.C. Sperry had resigned as president and was "retiring to private life."⁸⁶ The next day the news was also reported in the *Los Angeles Times*.⁸⁷ Magnavox eventually relocated to the Midwest.

c. LIFE ON HAWTHORNE TERRACE

It is not known where Sperry and his wife Adelia were living in Berkeley before the 1923 fire, but after the fire, it appears they live on Hearst. In 1924, he applied for a permit to build the Hawthorne Terrace structure that had, as noted above, "the distinction of building the most expensive structure in the area."⁸⁸ Our best guess is that the Sperrys moved to Hawthorne Terrace in around 1925-1926.⁸⁹ James Sperry and his wife Adelia raised their children, James O., Bruce, Cynthia (m. Harris) in the home. Muriel was socially active; James attended Berkeley High from which he graduated in 1937. Cynthia was married in the garden of the 1450 Home.⁹⁰

⁸⁴ "Magnavox Co. Is Prosperous During 1922," *San Francisco Chronicle*, Feb. 26, 1923.

⁸⁵ *Magnavox Co. v. Jones*, 105 Cal. App. 98, 100 (Cal. Ct. App. 1930).

⁸⁶ "Magnavox Earnings Set New Record," *Oakland Tribune*, Nov. 22, 1928.

⁸⁷ "Sperry Resigns as Magnavox Leader," *Los Angeles Times*, Nov. 23, 1928.

⁸⁸ "Tombstones of Berkeley's Fire Crash Before the Advance of Progress," *Oakland Tribune*, Sep. 17, 1924.

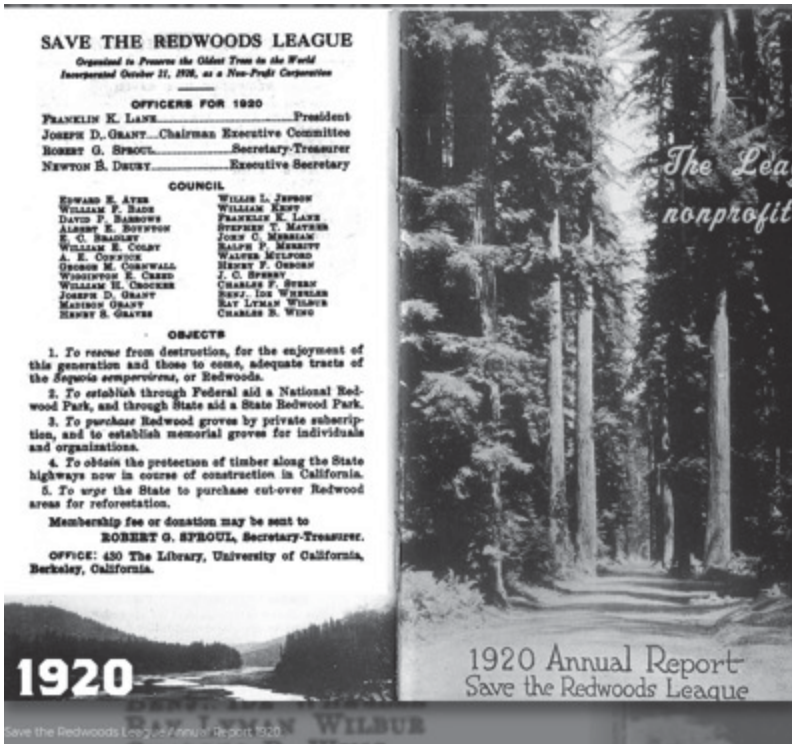
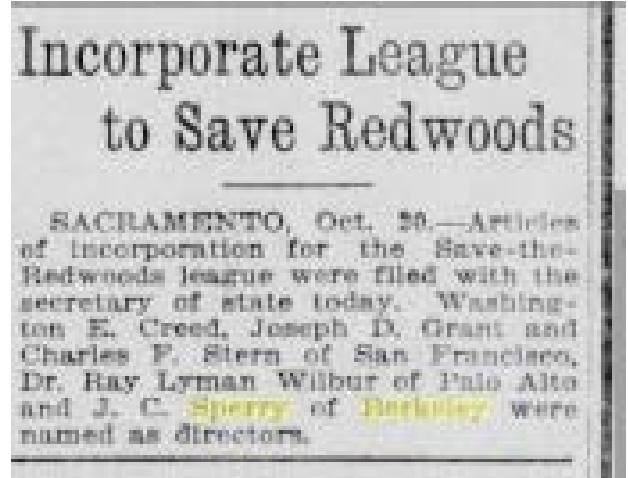
⁸⁹ Interestingly, his wife and sister were in a car that collided with a street car on April 25, 1925. At that time their addresses were reported as 2425 Hearst and Cleyne Court respectively, so presumably they moved to Hawthorne Terrace sometime after April 1925. Both ladies were hospitalized (one at Alta Bates Sanitarium; the other at the University Hospital). "Two Women Hurt as Auto, Street Car Hit," *Oakland Tribune*, April 25, 1925.

⁹⁰ "Muriel Glass to be Married at Sperry Home," *Oakland Tribune*, Jul. 11, 1932; "Helen Judd Betrothal Announced," *Oakland Tribune*, July 17, 1932.

d. SPERRY'S LIFE'S WORK: SAVING THE BIG TREES

Although his father had sold the family's interests in Big Tree Grove, James C. Sperry remained deeply committed to the preservation of Northern California's unique big trees and work tirelessly to ensure their preservation.

He was one of a group of early California environmentalists who incorporated the Save the Redwoods League in 1920.⁹¹ (*Right: Announcement of Incorporation of Save the Redwood League. Los Angeles Herald, Vol. XLV, No. 303, Oct. 20, 1920.*) The League had been formed three years earlier by John C. Merriman, Madison Grant, and Fairfield Osborn.⁹² J. C. Sperry was the League's first manager. During its formative early years, J.C. Sperry served as a director as well and negotiated actively to acquire key groves. The first memorial grove was established in 1921



In 1924, the League decided to focus its efforts on preserving four areas: Bull Creek and the Dyerville Flats, Prairie Creek and the Humboldt Lagoons, Del Norte Coast, and the Mill Creek/Smith River redwoods. John D. Rockefeller pledged \$1 million for the Bull Creek Area and contributed an additional \$1 million to the League. Two years later, James C. Sperry was selected to be a part of the team negotiating with the owners of Bull Run on behalf of the League. Those negotiations lasted 6 years!

⁹² See www.savetheredwoods.org/about-us/mission-history/



The article to the left ran in the *Oakland Tribune*, August 25, 1924, and shows James C. Sperry with other dignitaries at the dedication of a saved redwood grove to the former Secretary of the Interior (and Californian) Francis K. Lane, who was the League's first president.⁹³ J.C. Sperry is pointed out by the red arrow.

In 1926, Sperry played a key role with in negotiating on behalf of the League with Pacific Lumber over the sale of additional large acres including

Bull Run, as described in the article below, which ran in the *San Francisco Examiner*, on January 31, 1926.

SUCCESS SEEN IN REDWOODS SAVING MOVE

League Confident Reservations in Both Humboldt and Del Norte Will Be Set Aside

Bureau is covering the determined effort made by a group of nature-loving Californians to preserve the oldest living things on earth—the Redwood.

In the annual report, just issued, of the "Save-the-Redwoods League" this statement is contained:

"A great Redwood Forest Reservation, comprising approximately 1,000 to 1,500 acres and representing a valuable of several million dollars is contemplated in place recently acquired, and given approval by the council of the Save-the-Redwoods League at its annual meeting in San Francisco on September 8, 1925.

Announcement in this effort has just been made by Dr. John C. Merriam of Washington, D. C., president of the league, and J. C. Sperry of San Francisco, chairman of the league's board of directors.

"This reservation if established will be of national significance, both as to size and importance, and will, according to the plan, be located on the banks of the South Fork and Red rivers of Eureka, Humboldt county, California, and will comprise the major portion of the water shed of Bull creek, a tributary of the South Fork of the Red."

"NO FINER FOREST"

Madison Street at New York square

Where the Redwood Is at Its Best



Scene at the mouth of Bull Creek, in Bull Creek Flat, proposed Redwood reservation. This stream of perennial flow furnishes abundant moisture, which is one reason for the perfect development of these great trees in this section.

Move to Save California's Redwoods Making Progress That Cheers League

(Continued from Page One.)

factors were such as to favor their persistence only in California. These Redwoods then are in many ways the sublimate type of the earth's vegetation. For untold thousands of years this race of trees has been growing here—the finest example we have on the earth today of the vegetation of the Miocene epoch. And now—do we mean to sweep clean from end to end the finest part of the Redwood belt, where the forest is most representative of the vegetation of a geological age long since past? That would be a shameless thing to happen."

It is interesting to note that over seventy per cent of all the lumbermen, owners of great stretches of Redwoods, support wholeheartedly the project of setting aside two large national reservations and a number of smaller parks where these California trees could be preserved for posterity.

LUMBERMEN TO OPERATE

The owner of this timber, the Pacific Lumber Company, one of the largest operating concerns in the lumber industry, is co-operating with the "Save - the - Redwood League" in order to determine a

fair valuation of the area to be purchased from them and taken over for public use. Conferences to this end between officials of the league and the company are now taking place. It is expected that within a short time the exact price at which this property is to be

Highway Commission Plans New Bridges

EXAMINER BUREAU, SACRAMENTO, Jan. 29.—New construction and repair plans covering four California bridges, notably a new span over the Santa Maria River, were announced today by the State Highway Commission.

The Santa Maria River bridge, on the Coast Highway north of the town of Santa Maria, will be 1200 feet long and of the reinforced concrete pile trestle type with a clear roadway width of 24 feet.

Other plans include construction of the Honey Creek bridge on the Pacific Highway in northern Shasta county, rebuilding of the Santa Ana River bridge in Orange county and widening of the Rio Hondo bridge in Los Angeles county.

then it will rest with the interested public to secure funds necessary for setting aside this magnificent area.

The league is lending its wholehearted support to this project. A finance committee has been appointed to represent the league in handling pledges and funds. It consists of J. D. Grant and William H. Crocker of San Francisco, Duncan McDuffie and J. C. Sperry of Berkeley and H. G. Sproule, vice president and comptroller of the University of California.

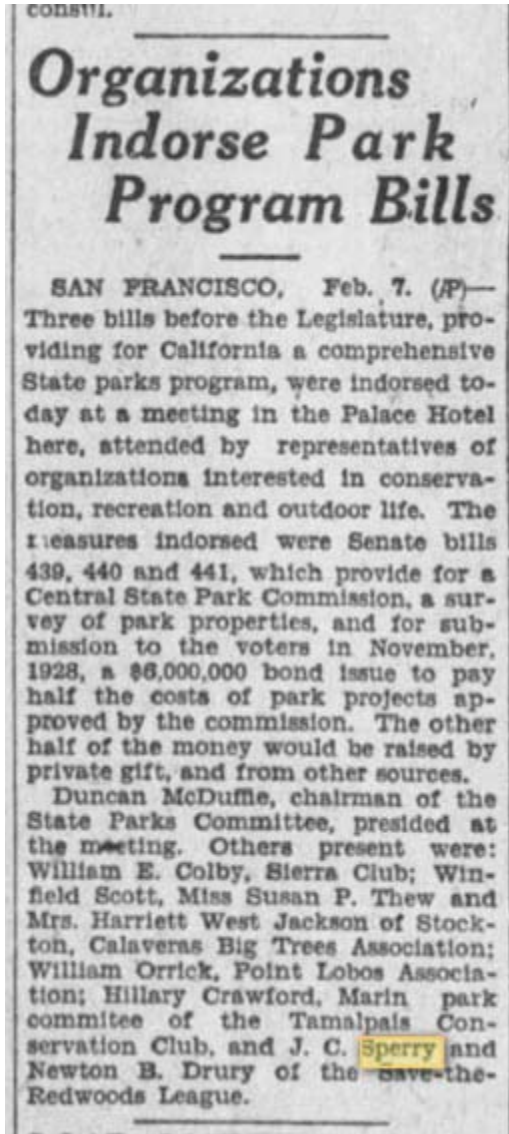
The committee appointed to negotiate with the Pacific Lumber Company consists of the chairman, Colonel Henry S. Graves, former chief of the United States Forestry Service and now professor of Yale University and dean of its Forestry School, Professor Walter Mulford, head of the Department of Forestry in the University of California, J. C. Sperry and Duncan McDuffie.

—one well known forestry expert, Major David T. Mason, who for a number of years has been directing the reforestation plans of the lumber interests in Mendocino and Humboldt counties, is participating in the negotiations.

⁹³ "Franklin K. Lane Memorial to be Dedicated Aug.24," *Oakland Tribune*, Aug. 5, 1924.

Interestingly Duncan McDuffie, the real estate developer who worked with Gutterson on St Francis Woods, was involved alongside Sperry in those negotiations on behalf of the League. The negotiations lasted 6 years but were successful; Bull Run was saved. In 1931, that acreage became the Humboldt Redwoods State Park.

Sperry and McDuffie crossed paths again in 1927. As noted in the article to the left, which ran in the *Los Angeles Times* on February 8, 1927, Sperry represented the League at a meeting in San Francisco of environmental preservationists, including McDuffie, chairman of the State Parks Committee, where the groups voted to endorse three bills pending before the state legislature "providing California a comprehensive State parks program." That legislation eventually passed in 1928, creating and funding the state's parks system.



The League had success later that year as reported in the article shown below, which



appeared in the *Los Angeles Times*, on July 8, 1927, and described and describes a ceremony celebrating the addition of "vast scenic regions of Kern River Canyon, Mt. Whitney and the headwaters of Kaweah" to the Sequoia National Park. Sperry attended on behalf of the Save the Redwoods League.

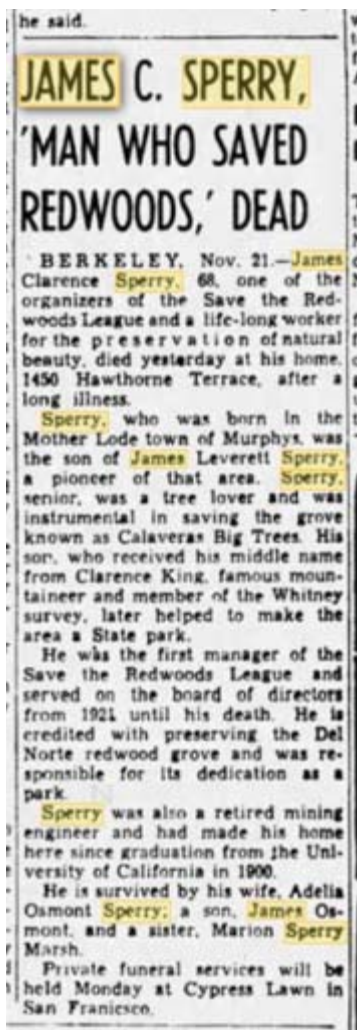
In addition to Save the Redwoods League, J.C. Sperry and other “prominent citizens” including his cousin, Mrs. William H. Crocker, formed another organization – the Calaveras Grove Association – in 1926 in an attempt to acquire the famous North Grove from Whiteside (the person to whom J.C.’s father sold his holdings).⁹⁴ The North Grove totaled 1760 acres of old growth forest, including 110 “big trees.” With the League’s assistance, the North Grove was acquired and eventually become Calaveras Big Trees State park in 1931.

The Sperry Family’s love of trees –and particularly big trees -- is evident in the landscape that they commissioned Mabel Symmes to create for the twin homes on Hawthorne Terrace, which features a redwood grove at the corner of Vine Lane and

Hawthorne Terrace. It includes a rare so-called dawn redwood (*Metasequoia glyptostroboides*), which is deciduous. Dawn redwoods were so rare that they were originally thought to be extinct. That grove remains to this day as a wonderful reminder of the Sperry family’s love of those trees.

Interestingly, the Sperry’s love of redwoods was shared with the next owners of the 1450 House, Donald and Sylvia McLaughlin. Both Donald and Sylvia McLaughlin sat on the board of Save the Redwoods League.⁹⁵ The techniques for preserving large areas for park land that the Redwoods League pioneered in the 1920s and 1930s were later used by Sylvia McLaughlin in connection with her work for Save the Bay, Citizens for the Eastshore State Park, and Trust for Public Lands.

(Obituary, *Oakland Tribune*, Nov. 22, 1942; photo above courtesy of BAHA)



⁹⁴ “Battle to Preserve Calaveras Big Trees Opens: Purchase for State Park Is Present Plan,” *San Francisco Examiner*, Oct. 24, 1926.

⁹⁵<https://www.advocate-news.com/2016/01/21/sylvia-mclaughlin-last-living-founder-of-save-the-bay-dies-at-age-99/>

2. MARION SPERRY MARSH (FIRST OCCUPANT)

When Marion Marsh, James Cameron Sperry's older sister, moved into the house at 1440 Hawthorne Terrace in 1925, she had been a widow for over 10 years. Like her brother, James, she was born and brought up in Big Tree Country in Calaveras County at their parents' homes in Murphys and Mammoth. (photos below right: Calaveras His. Soc.)

As noted above, her father James L. was a Gold Rush era pioneer who came to California with his brother Willard and cousin Austin. Austin started a mill in Stockton in 1853 to produce feed for the pack animals of the prospectors who were flooding the state at the time.⁹⁶ The venture, Sperry



Flour Company, eventually became the largest mill west of the Rockies, and was a household name in California well into the mid-1940s. James L.'s eldest son Willard went to work for the family's flour company, managing their mills in Marysville⁹⁷, and later ran a large and prosperous dairy.⁹⁸ The Sperry family eventually sold the company to General Mills.



Marion was born June 27, 1871, a few years before her brother James Cameron Sperry. After James left for college and her parents retired, Marion remained behind. At 19, she became "postal master" for the area around the Mammoth Hotel⁹⁹ (also known as Sperry's Hotel and the Big Trees Hotel, pictured above; post office to the right), which the family still owned at the time. She was in that position for several years (until August 1900)¹⁰⁰ and also was involved in running the Mammoth Hotel. In that capacity she hosted John Muir, whom she showed around the nearby groves, as well as other notable visitors.¹⁰¹ The photo at left is of Muir in the grove (Photo: John Muir papers

⁹⁶ "Mrs. Marion Sperry Marsh of Famed Milling Family Dead," *Oakland Tribune*, Feb. 26, 1959.

⁹⁷ "Death of J.L. Sperry," *San Francisco Call*, Feb. 4, 1902.

⁹⁸ Another son worked with the Crocker family (to whom they were related by marriage) in the oil business. *Id.*

⁹⁹ "Postal Matters," *The Record-Union* (Sacramento, CA), May 3, 1891; "Military and Postal Matters," *San Francisco Call*, May 4, 1891; Kramer, Carol, California Big Trees, California Big Trees Historic Association publication.

¹⁰⁰ "Postoffice Changes and List of Pensions Granted," *The San Francisco Call*, Aug. 16, 1900.

¹⁰¹ Kramer, Carol, California Big Trees, California Big Trees Historic Association publication.

- F24-1333, University of the Pacific). In 1900 she traveled to Paris with a friend to attend the Paris Exposition.¹⁰²



After her father sold the hotels and the Big Tree Grove, Marion appears to have accompanied him on a trip East to visit his birthplace. When her father died in 1902, she was still unmarried.¹⁰³ Sometime between 1908 and 1910, she married James Morrill Marsh.

The Marsh Family has a colorful history in California. James M. Marsh was related to Dr. John Marsh, the colorful

California pioneer who was the state's first Western-educated medical doctor. John Marsh eventually settled on a large cattle ranch in what is now Contra Costa County. He was famously murdered in 1856 near what is now Martinez (photo left: John Marsh, California archives; below: the landmark marking the spot of his murder). His house remains as part of the Marsh Creek State Park.¹⁰⁴



The branch of the Marsh family that Marion Sperry married into, was a generation removed from John Marsh, and spent only part of the year in California. James M. Marsh's father George owned a soap manufacturing plant in Lynn, MA, called Marsh Soap & Tallow and later Good-Will Soap. By 1910 James Morrill Marsh was married to Marion and was treasurer of the family soap business, which had been sold a few years before to the Swift meatpacking conglomerate. James and Marion lived part of the year in Massachusetts, first in Lynn and later at an estate in Topsfield; and

the remainder in Southern California where James owned a home and orange groves and had another manufacturing business.

George's brother James (not to be confused with George's son James Morrill) lived as a prosperous

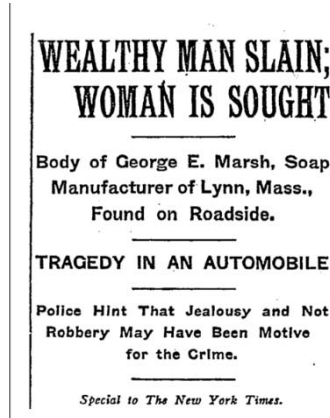


¹⁰² "Miss Crocker to Wed in the Month of Roses," *The San Francisco Call*, May 6, 1900.

¹⁰³ "Death Calls James L. Sperry Once Owner of Big Tree Grove," *The San Francisco Call*, Feb. 4, 1902.

¹⁰⁴ <http://johnmarshhouse.com/>

farmer in the Stockton area. By the late 1800's, James Morrill was also spending a substantial part of the year in Southern California.¹⁰⁵ James purchased land there in 1908¹⁰⁶ and owned a residence in Indiola (now Indio) and acres of oranges by the time of his death in 1913.¹⁰⁷

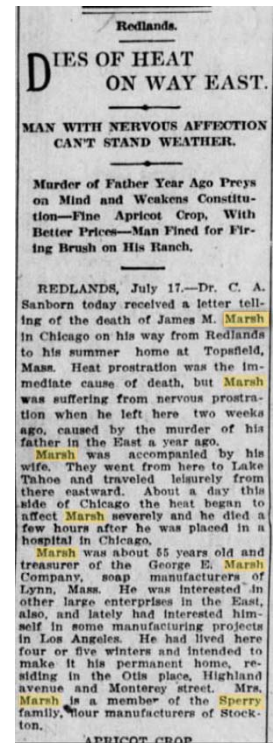


Like his relative John Marsh, George Marsh also came to a violent end at the hand of a Californian. George, the “millionaire manufacturer,”¹⁰⁸ was murdered in Lynn in 1912 by Willis Dow, a Stockton resident, whose mother lived in Berkeley.¹⁰⁹ The murder was motivated by the large inheritance George’s brother James had left to an adopted daughter (Dow’s aunt and lover) in California. George stood to inherit the daughter’s money if she died, and so Dow traveled to Lynn and killed

George to ensure that did not happen.

The murder caused a sensation. It was reported on the front page of the New York Times,¹¹⁰ and the subsequent man hunt¹¹¹ and trial were widely reported in newspapers on the East Coast and California.¹¹² James and Marion Marsh were in California at the time of the murder, but James was said to have assisted in the hunt for his father’s killer.

James inherited the bulk of his father’s estate,¹¹³ but he did not live long to enjoy it. James, apparently never in good health, suffered a “nervous breakdown due to the death of his father,”¹¹⁴ and died the



¹⁰⁵ “Notes,” *The San Bernardino County Sun*, April 11, 1895; “At City Hotels,” *The Los Angeles Times*, Dec. 7, 1907.

¹⁰⁶ “In Westminster Terrace,” *The Los Angeles Times*, Aug. 23, 1908.

¹⁰⁷ “James M. Marsh Dead,” *The Boston Globe*, Jul. 8, 1913.

¹⁰⁸ “Bear Valley’s Road Flooded,” *The Los Angeles Times*, Jul. 19, 1913.

¹⁰⁹ “Stockton Man Charged with Marsh Murder,” *The San Francisco Call*, April 16, 1912.

¹¹⁰ “Wealthy Man Slain; Woman is Sought,” *New York Times*, April 13, 1912: The Times reported that Marsh had been shot five times: “George E. Marsh, President of the Goodwill Soap Company of this city, was found dead on the rocky embankment of the Point of Pines Boulevard today. He was murdered in an automobile and a woman figured in the tragedy, according to the theory of the police tonight.”

¹¹¹ “Stockton Man Charged with Marsh Murder,” *The San Francisco Call*, April 16, 1912.

¹¹² A local Lynn historian summarized the scandal: “The story made the front page of the *New York Times*, but then was almost overshadowed by the sinking of the Titanic a day later. Detectives eventually received tips of a “blue car” being seen near Marsh’s house on the day of the murder and that led them to young man who had been in a boarding house nearby for a few days before the murder. That man was Willis Dow. A search of Dow’s belongings uncovered a coat, with all the buttons missing. A thread on the button matched the weave on the coat (the other buttons has been removed by Dow to in a futile attempt to thwart any subsequent investigation). Eventually, the blue car was located and the California car dealer who sold it to Dow identified him as the purchaser. Why would Dow travel from California to Massachusetts to kill Marsh? It turned out that Dow was having an affair with his own aunt, Opra Marsh, who was the foster daughter of George Marsh’s deceased brother James. She was the heiress to a considerable fortune and Dow knew this and seduced her. Opra named him as sole beneficiary in her will. . . . Dow planned on killing George, and did, to hasten the transfer of monies to Opra. To shorten a long story, Dow was convicted and sent to the electric chair at Charlestown State Prison on March 24, 1914.”

<https://www.facebook.com/CSI.LYNN/>

¹¹³ “Not Mentioned in Will,” *The Boston Globe*, May 4, 1912.

¹¹⁴ “Bear Valley’s Road Flooded,” *The Los Angeles Times*, Jul. 19, 1913.

next year (1913) from heat prostration in Chicago on his way back East with Marion.¹¹⁵ The Marsh money passed not to Marion, but to George's granddaughter.¹¹⁶

Mrs. Marion Sperry Marsh of Famed Milling Family Dead

BERKELEY, Feb. 26—Death has claimed Mrs. Marion Sperry Marsh, 87, member of the Sperry Flour Co. family and descendant of pioneer Californians.

Mrs. Marsh was born at Murphy's in the Mother Lode where her father owned the famed Murphy's Hotel and for 50 years, also, owned Calaveras Big Trees.

He came to California in the Gold Rush days, with a brother, Willard and a cousin, Austin. Austin started a mill in Stockton in 1852 to produce feed for pack animals during the gold rush. That business grew to become the largest milling enterprise west of the Rocky Mountains. In 1929 when the Sperry Flour Co. was merged with General Mills the new company became the biggest flour producer in the world.

Mrs. Marsh spent her life in California except for a period in Lynn, Mass. where her late husband, James M. Marsh owned a manufacturing plant. He died in 1914.

She died yesterday at her home, 1440 Hawthorne Terrace. She had been in failing health for years.

She had lived here the last 35 years and was a member of All Souls' Episcopal Church, Holly branch of the Children's Hospital of the East Bay and the English Speaking Union.

Private funeral services were held today at Berkeley Hills Chapel conducted by the Rev. Albert Olson, pastor of All Souls' church. Inurnment will be at Lynn, Mass. with her late husband.

McLain Named to Advisory Post

SACRAMENTO, Feb. 26 — Gov. Edmund G. Brown today named George McLain, veteran pension promoter and head of the California Institute of Social Welfare, as a member of the Citizens Advisory Committee on Aging.

Four other new appointments to the committee announced by Brown are George Hellyer Jr., San Francisco attorney; Mrs. Ann Boyd of Lancaster, a member of the Los Angeles County Public Welfare Commission; Rev. Harold E. Baker of Chula Vista, administrator of the San Diego Methodist Home for the Aged; and Miss Barbara Rosien of Los Angeles.

Reappointed were Dr. Richard L. Johnson, Sacramento; T. R. Hyde, Santa Cruz; and Mrs. Edna Bonn of Atherton.

Big Tanker Launched

KOBE, Japan, Feb. 26—(AP)—The Bering Sea, a 38,750 deadweight ton tanker ordered by the Gulf Oil Co. was launched at the Kawasaki heavy industry dockyards today. It is registered in Liberia and scheduled for completion in April.

Marion traveled to Europe after James's death, and returned to California in 1914 to live there permanently. Between 1913 and 1925, Marion lived in San Francisco and at various locations in Berkeley, including 2600 Ridge Road. After moving to 1440 Hawthorne Terrace in 1925, Marion (Sperry) Marsh effectively retired and lived a quiet life surrounded by family. Shortly after she moved in, her older brother Willard (a business man) and his wife Mabel Sperry moved into the 1440 House with her. Marion died in 1959.

3. McNIVEN FAMILY (SECOND OWNERS)

In September 1959, James O. Sperry (James C. Sperry's son) sold the house to Prof. Hugh and Marion McNiven. Hugh McNiven was a professor of civil engineering at Cal, where he taught for 34 years. In addition to teaching, Hugh served as director of the University's Earthquake Engineering Research Center (1980-85) and president of the University Art Museum (photo below right, Oakland Tribune, May 5, 1968; photo below left, UC Regents). He was responsible for the museum's

acquisition of the Alexander Calder sculpture *The Hawk for Peace* and other important works. He passed away in 2009.¹¹⁷



Admiring the new Reubens acquisition at the University Art Gallery were Professor Hugh McNiven, Mrs. Tevis Jacobs and Frederic D. Weekes

¹¹⁵ "James M. Marsh Dead," The Boston Globe, Jul. 8, 1913.

¹¹⁶ *Id.*

¹¹⁷ <https://www.legacy.com/obituaries/sfgate/obituary.aspx?n=hugh-mcniven&pid=138827372>



His wife Marion Fitzhugh McNiven is (ironically) also a descendant of California Pioneer John Marsh. A graduate of U.C. Berkeley's School of Architecture, Marion McNiven has devoted herself to restoring the Marsh-Sperry House and Garden.



(photos: above, Hugh & Marion McNiven; left 1987 reception in the shared patio; photo below: same, Sylvia McLaughlin and Nancy Hitch – wife of former U.C. President Charles Hitch and former Blake House resident – talking with Dr. Alfred Compton) (photos: McNiven family).



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University of California Berkeley
- Chris Marino, Curator
Environmental Design Archives
University of California
- Scott Craver, Ph.D.
FAAR, Editorial Director, The Cultural Landscape Foundation

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- A. Survey and Maps
- B. Original Building Permit Paperwork
- C. Original Landscape Design by M. Symmes
- D. Original Hardscape Drawings by H. Gutterson
- E. Article about zoning application pertaining to property
- F. Berkeley Urban Conservation Study
- G. Articles about Owners & Occupants



Office of the City Manager

INFORMATION CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Timothy Burroughs, Director, Planning and Development

Subject: LPO NOD: 1450 Hawthorne Terrace/#LMIN2018-0002

INTRODUCTION

The attached Notice of Decision for a City Landmark is submitted to the Mayor and City Council pursuant to Berkeley Municipal Code (BMC) Section 3.24.160, which states that “a copy of the Notice of Decision shall be filed with the City Clerk and the City Clerk shall present said copy to the City Council at its next regular meeting.”

CURRENT SITUATION AND ITS EFFECTS

The Landmark Preservation Commission (LPC/Commission) has granted City Landmarks status to the property at 1450 Hawthorne Terrace, The Sperry-McLaughlin House. This action is subject to an appeal period which began on October 15, 2019.

BACKGROUND

BMC/LPO Section 3.24.190 allows City Council to review any action of the Landmarks Preservation Commission in granting or denying Landmark, Structure of Merit or Historic District status. In order for Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Council member must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by October 30, 2019. Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must rule on the application within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

ENVIRONMENTAL SUSTAINABILITY

Landmark designation provides opportunities for the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

POSSIBLE FUTURE ACTION

The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There are no known fiscal impacts associated with this action.

CONTACT PERSON

Fatema Crane, Landmarks Preservation Commission Secretary, Planning and Development, 510-981-7410

Attachments:

1: Notice of Decision – #LMIN2018-0002 at 1450 Hawthorne Terrace

ATTACHMENT 1, PART 1



LANDMARKS PRESERVATION COMMISSION

NOTICE OF DECISION

DATE OF BOARD DECISION: September 5, 2019
DATE NOTICE MAILED: October 15, 2019
APPEAL PERIOD EXPIRATION: October 30, 2019
EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): October 31, 2019¹

1450 Hawthorne Terrace

The Sperry-McLaughlin House

Landmark application #LMIN2018-0002 to designate a residential property as a City Landmark

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the following designation:

DESIGNATION: City Landmark

APPLICATION AUTHOR: Carolyn McNiven, 1440 Hawthorne Terrace, Berkeley, CA

ZONING DISTRICT: R-1(H), Single-Family Residential/Hillside Overlay

ENVIRONMENTAL REVIEW STATUS: Categorically exempt from environmental review pursuant to California Environmental Quality Act Guidelines, Section 15061 (*Review for Exemption*).

The application materials for this project are available online at:

¹ Pursuant to BMC Section 23B.32.090, the City Council may “certify” any decision of the LPC for review, which has the same effect as an appeal. In most cases, the Council must certify the LPC decision during the 14-day appeal period. However, pursuant to BMC Section 1.04.070, if any portion of the appeal period falls within a Council recess, the deadline for Council certification is suspended until the first Council meeting after the recess, plus the number of days of the appeal period that occurred during the recess, minus one day. If there is no appeal or certification, the Use Permit becomes effective the day after the certification deadline has passed.

LANDMARKS PRESERVATION COMMISSION
NOTICE OF DECISION
#LMIN2018-0002
1450 Hawthorne Terrace
October 11, 2019
Page 2 of 4

<http://www.cityofberkeley.info/zoningapplications>

FINDINGS FOR APPROVAL AND LANDMARK APPLICATION ARE ATTACHED TO THIS NOTICE

COMMISSION VOTE: 4-2-1-1 (one vacancy)

YES: ADAMS, ALLEN, O'MALLEY, SCHWARTZ

NO: ABRANCHES DA SILVA, FINACOM

ABSTAIN: CRANDALL

ABSENT: MONTGOMERY

TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):

To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1st Floor, Berkeley. The City Clerk's telephone number is (510) 981-6900.
 - a. Pursuant to BMC Section 3.24.300.A, an appeal may be taken to the City Council by the application of the owners of the property or their authorized agents, or by the application of at least fifty residents of the City aggrieved or affected by any determination of the commission made under the provisions of Chapter 3.24.
2. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
 - a. The basic fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less. Signatures collected per the filing requirement in BMC Section 3.24.300.A may be counted towards qualifying for the reduced fee, so long as the signers are qualified. The individual filing the appeal must clearly denote which signatures are to be counted towards qualifying for the reduced fee.
 - b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
 - c. The fee for all appeals by Applicants is \$2500.

LANDMARKS PRESERVATION COMMISSION
NOTICE OF DECISION
#LMIN2018-0002
1450 Hawthorne Terrace
October 11, 2019
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3. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).

If no appeal is received, the landmark designation will be final on the first business day following expiration of the appeal period.

NOTICE CONCERNING YOUR LEGAL RIGHTS:

If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must including the following information:
 - A. That this belief is a basis of your appeal.
 - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
 - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

LANDMARKS PRESERVATION COMMISSION
NOTICE OF DECISION
#LMIN2018-0002
1450 Hawthorne Terrace
October 11, 2019
Page 4 of 4

PUBLIC COMMENT:

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

FURTHER INFORMATION:

Questions about this action should be directed to the LPC Secretary, Fatema Crane, at (510) 981-7410 or lpc@cityofberkeley.info. All project application materials, including full-size plans, may be viewed at the Permit Service Center (Zoning counter), 1947 Center Street, 3rd Fl., between 8 a.m. and 4 p.m., Monday through Friday, except Tuesday when the Center closes at 3PM.

ATTACHMENTS:

1. Findings and Conditions
2. Landmark Application

ATTEST: 

Fatema Crane, Secretary
Landmarks Preservation Commission

cc: City Clerk
Application Author: Carolyn McNiven, 1440 Hawthorne Terrace, Berkeley, CA
Property Owners: Karen & Michael Dreyfus, 1450 Hawthorne Terrace, Berkeley, CA

DRAFT FINDINGS

SEPTEMBER 5, 2019

1450 Hawthorne Terrace

City of Berkeley Landmark Application #LMIN2018-0002

PROJECT DESCRIPTION

Landmark Designation of the property at 1450 Hawthorne Terrace – The Sperry-McLaughlin House and Garden

CEQA FINDINGS

1. The project is found to be exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.) pursuant to Section 15061.b.3 of the CEQA Guidelines (activities that can be seen with certainty to have no significant effect on the environment).

LANDMARK PRESERVATION ORDINANCE FINDINGS

2. Pursuant to Berkeley Municipal Code (BMC) Section 3.24.110.A Paragraph 4 of the Landmarks Preservation Ordinance, and based on the evidence presented in the Landmark application, the Landmarks Preservation Commission of the City of Berkeley (Commission) finds that the subject property warrants designation as a City Landmark because it embodies and expresses the history of Berkeley, Alameda County and California through its direct associations with persons significant to this history. These persons are: James Cameron Sperry (born 1874, died 1942), an inventor and conservationist who commissioned the development of this property and was its original occupant; the renowned and prolific Bay Area architect Henry Higby Gutterson (born 1884, died 1954) who designed the 1924 main building and plan for this property as well as the adjoining property and extension of this building to the north (1440 Hawthorne Terrace) as a family compound for Sperry; Sylvia C. McLaughlin (born 1916, died 2016), a leading Bay Area environmentalist, who occupied the property during her most notable activities and the formation of the influential Save the Bay organization, in 1961; and Donald H. McLaughlin (born 1891, died 1984), husband of Sylvia, who also occupied the property and served as a Regent of the University of California (from 1951 to 1967) during his residence. Further, the Commission finds that the Landmark application provides compelling information about the landscape designer Mabel Symmes, who appears to represent historical importance in her own right.
3. Pursuant to BMC Section 3.24.110.A, Paragraph 1.a, the Commission also finds that the subject property warrants City Landmark designation for its architectural merit as an example of the work of the notable Bay Area architect Henry Higby Gutterson. This property is a unique example of Gutterson's residential work in Berkeley and, more specifically, the Berkeley Hills at the time of its construction where it featured two primary

residences and an accessory residence (1440 and 1450 Hawthorne Terrace) within a family compound setting.

4. Pursuant to BMC Section 3.24.110.A, Paragraph 2, the Commission further finds that the subject property warrants City Landmark designation for its association with the movement and evolution of culture as represented through its associations with Sylvia C. McLaughlin, the establishment of the influential Save the Bay organization, and the rise of environmental activism in the Bay Area during McLaughlin's career.

FEATURES TO BE PRESERVED

1. This designation shall apply to the subject property and the following distinguishing features of the Sperry-McLaughlin House and a portion of the original 1924 Sperry-Marsh House, including but not limited to:

A. Building exterior of Sperry-McLaughlin House:

Overall Features:

- Complex, one- and two-story massing with partially exposed basement designed to accommodate sloping lot.
- Side-gabled tile-clad roof with multiple perpendicular paired cross gables extending from main volume and double-ridged roof line of north volume.
- Rectangular, multi-light wood-frame fixed and casement windows at first and second story of all façades.
- Stucco cladding.
- Copper rain gutters, downspouts, and conductor heads.

North Façade:

- Second-story projecting bay with wood panels, multi-light wood-frame casement windows, and decorative brackets.
- Recessed entry portico with glazed French doors, spindled balustrades and stucco half-walls integrated with wood arbor.
- Original copper light fixture within entry portico.
- Abutment with garage/apartment building at the northeast corner.

East Façade:

- Tile-clad pent roof over projecting first-story bay at northern end of east façade.
- Arched dormer in east-facing roof slope centered over main entry, with arched multi-light wood-frame window.
- Elaborate main entry portico at east façade with wood posts with shaped capitals, lintels, spindles, and panels.
- Original copper light fixture within entry portico.
- Brick and stucco-clad chimney at east façade of south, one-story volume.
- Slightly recessed Dutch door at east façade of south, one-story volume with multi-light amber glazing and low-profile canopy.

- Stucco half walls extending from entry portico and partially enclosing patio east of south façade.

South Façade:

- Second-story window bay with decorative wood brackets.

West Façade:

- Decorative half-timbering at second story.
- Second-story central paneled bay with multi-light glazing supported on a rectangular bay with tile-clad hipped roof.
- Stucco-clad chimney to south of bay.
- Recessed south volumes.
- Glazed wood French doors with decorative header and surround at first-story raised patio.
- First-story raised patio supported on stucco-clad arcade with three arches over exposed basement wall.
- Second-story window bay at south end of west façade.
- Curved staircase with stucco half-wall at south end of west façade.

B. Garage and Apartment Building:

- Wood pergola spanning the east, Hawthorn Terrace-facing garage façade.
- Stucco cladding.
- Rectangular multi-light wood-sash windows at east, south, and west facades.
- Tile-clad hipped roof with paired perpendicular cross gables.
- Symmetrical placement of second-story windows at west façade.
- South facing second-story entry bay with multi-light wood-sash window.
- Abutment to Sperry and Marsh houses at north and south corners of west façade.

2. This designation shall apply to the subject property and to the Sperry-Marsh Gardens, a contributing feature to this site. Particular aspects are:

- Shared laundry yards and tiered patio areas with their associated retaining walls and stairs, fountain, and wooden trellis joining the abutting residence at 1440 Hawthorne Terrace
- Original Berkeley rhyolite stone wall along Vine Street
- Character of the wilderness area of yard bordering Vine Street, containing mature redwood, sequoia and (coast) live oak trees, and the pathways therein



The Sperry-McLaughlin House 1450 Hawthorne Terrace

LANDMARK APPLICATION SUBMITTED TO
TO THE CITY OF BERKELEY
LANDMARKS PRESERVATION COMMISSION

LANDMARK APPLICATION PAPERWORK
FOR SPERRY-MCLAUGHLIN HOUSE AND
GARDEN LOCATED AT 1450 HAWTHORNE
TERRACE
SUBMITTED PURSUANT TO CITY OF BERKELEY
ORDINANCE NO. 4694 N.S.
NOTE: APPLICATION PAPERWORK FOR 1440
HAWTHORNE TERRACE IS SUBMITTED
SEPARATELY BUT INCORPORATES THIS
APPLICATION

CITY OF BERKELEY LANDMARK APPLICATION

1. **STREET ADDRESS:** 1450 Hawthorne Terrace
City: Berkeley
County: Alameda
Zip Code: 94708

2. **ACCESSORS PARCEL NUMBER:** 059-2249-028
Block and Lot: 2249-02700
Tract: Originally part of Ranchos of Vincent and Domingo Peralta (Plot 84); later part of the Beardslee Tract conveyed to Carlisle in 1887; later part of the Bayview Homestead
Dimensions: Approx. 163 x 90x 162 x 84 (see survey)
Cross Streets: Vine Lane and Hawthorne Terrace

3. **Is The Property On The State Historic Resource Inventory?** No
Is The Property On The Berkeley Urban Conservation Survey? Yes. Form #: 24649

4. **APPLICATION FOR LANDMARKS INCLUDES:**
 - a. **Building:** Yes **Garden:** Yes **Other Features:** Yes **Natural:** Yes
Designed: Yes
 - b. **Landscape or Open Space:** Yes
 - c. **Historic Site:** Yes
 - d. **District:** No
 - e. **Other:** Additional features to be preserved listed at pages 38-41

5. **HISTORIC NAME:** Sperry House
Commonly Known Name: Sperry-McLaughlin House

6. **DATE OF CONSTRUCTION:** 1924
 - a. **Factual:** Yes **b: Approximate:** No**Source of Information:** Permit # 17854 issued Aug. 21, 1924.

7. **ARCHITECT:** Henry Higby Gutterson (house and hardscape); Mabel Symmes (landscape)

8. **BUILDER:** Axel Cederborg

9. **STYLE:** Period Revival (English Tudor)

10. **ORIGINAL OWNERS:** James Cameron Sperry; Donald and Sylvia McLaughlin
11. **PRESENT OWNERS:** Michael & Karen Dreyfus
12. **PRESENT USE:** Residential (Single Family)
Current Zoning: R-1(H)
Adjacent Property Zoning: R-1(H)
13. **PRESENT CONDITION OF PROPERTY:**
 - a. **Exterior:** Excellent
 - b. **Interior:** Excellent
 - c. **Grounds:** Excellent**Has the property's exterior been altered?** No
14. **DESCRIPTION OF THE PROPERTY:** See pages 10-34
15. **HISTORY:** See pages 42-69
16. **SIGNIFICANCE:** See pages 70-89
Historic Value: State: Yes. **City:** Yes. **Neighborhood:** Yes
Architectural Value: State: Yes **City:** Yes. **Neighborhood:** Yes
Basis for Landmark Designation: See pages 8-11
17. **Is the property endangered?** Unknown
18. **Photographs:** as noted throughout **Date:** various as noted
19. **Recorder:** Carolyn F. McNiven **Date:** Sept. 23, 2018
Reviewer: Richard Brandi, Richard Brandi Historic Preservation Consulting
20. **Repository:** Berkeley Architectural Heritage Association has agreed to put a copy of this document in their permanent collection, and it will be made available to the public upon request.

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INTRODUCTION

The architectural, cultural and historic significance of the homes, gardens, and landscape at 1450 and 1440 Hawthorne Terrace cannot be overstated. As the only known collaboration between famed Bay Area architect Henry H. Gutterson and the pioneering female landscape architect Mabel Symmes, the 1920s masterpieces exemplify the Bay Area Style. The design of the homes – so that the gardens and landscapes are visible from every room – are what distinguish Gutterson's work from his better-known contemporaries such as Julia Morgan and Bernard Maybeck. Gutterson designed these homes with a unique shared patio and arbor to invite the residents and their guests to move seamlessly from the inside of the homes to the gardens. Like the Blake House gardens that Symmes designed around the same time, the gardens of 1450 & 1440 (the Marsh-Sperry Garden) feature a formal garden with roses and hedging that flows seamlessly into a studied natural design that hugs the natural landscape (a hill) and is crisscrossed by paths and natural rhyolite rock retaining walls. Symmes's use of water details – a working fountain with Chinese detail and a lily pond -- also echo her famous Blake House garden designs.

The properties are the only remaining example of the creation of a family compound garden by Symmes (as her garden for the Blake family in Kensington was divided), and the only known example of this type of dual design by Gutterson. The two houses were called out by Gutterson authority Susan Dinkelspiel Cerny as particularly fine examples of Gutterson's residential style.

Further, history was quite literally made here. Most Berkeley residents have heard of Sylvia McLaughlin, 1450's most famous resident, who loved and used her house and garden in the service of the numerous causes that she supported, including most famously Save the Bay. Her equally distinguished husband, Donald McLaughlin, was the long time Dean of the School of Mining at UC Berkeley and a UC Regent in the 1960s who opposed the loyalty oath and hosted Regent meetings at his home during the height of the Free Speech Movement. (Notably, McLaughlin and Gutterson were both graduates of Berkeley High School.) McLaughlin Hall on the UC Berkeley campus was named after Donald, and the Eastshore State Park in the Berkeley Marina for Sylvia. Their home at 1450, however, was the nucleus of their personal and professional lives.

Less well known is the unique history of the man who commissioned the twin homes, James C. Sperry. In the 1920's when the houses were constructed, Sperry, was the president of one of California's earliest tech startups –Magnavox – which had moved its operations from Napa (where its pioneering acoustic technologies were born) to Oakland. Sperry was not only a prominent businessman, he was a committed

environmentalist. While in Berkeley in the 1920s, he was manager and director of Save the Redwoods League, one of the earliest and most successful environmental movements in the West. Sperry was personally responsible for saving numerous old-growth forests in Northern California. Sylvia McLaughlin served on the board of Save the Redwoods League for over 20 years. The property also features an untouched redwood grove, planted at Sperry's direction and featuring a rare dawn redwood (*Metasequoia glyptostroboides*), that was much loved by Sylvia.

While other Gutterson and Symmes's designs have been afforded landmark protection, the homes at 1450 and 1440 are the only known existing properties where the two collaborated. From the outside, the two homes are virtually unchanged from the 1920s. Further, because of the dedication of Sylvia McLaughlin and the long-time owners of 1440 (the McNivens), the unitary scheme gardens of the two properties have remained essentially as they existed when Gutterson and Symmes planned them as one in conformance with original gentle rolling hills landscape and to take advantage of their magnificent view of the Bay. Indeed, as Sylvia often remarked, it was from this vantage point that she could see what was happening to San Francisco Bay and conceived the need to protect it for future generations.

The best way to honor Sylvia, who preserved this property, and the three other historic figures who had a hand in designing it – Sperry, Gutterson, and Symmes -- is to accord landmark status to these two unique houses, their gardens and natural landscape



Mike Koozmin/The Examiner
Sylvia McLaughlin

BASIS FOR LANDMARK DESIGNATION

The Sperry-McLaughlin House and its gardens and landscape (which are part of the Marsh-Sperry Garden) are worthy of designation as a City of Berkeley Landmark because they conform to the following:

BMC 3.24.110.A.a. Architectural Merit (first, last, only, or most significant architectural property of its type in the region).

The Sperry-McLaughlin House (together with the Marsh House also under nomination for consideration for landmark designation) is over 50 years old and the **only known example** of a twin-house compound designed by well-known Bay Area Architect Henry Higby Gutterson. The Sperry-McLaughlin House and the Marsh-Sperry Gardens are also over 50 years old and **the only known collaboration** between Gutterson and notable landscape architect Mabel Symmes. The Marsh-Sperry Garden is the **only remaining twin garden design** by Mabel Symmes anywhere and **the only known remaining intact Symmes garden in Berkeley**. Further the size of the house and gardens and the nature of their relationship with the Marsh House make them the most significant twin/family compound property in the North Berkeley Hills.

BMC 3.24.110.A.b. Architectural Merit (Prototypes or outstanding examples; most notable work; best surviving work)

The Sperry-McLaughlin House is **an outstanding example** of a Period Revival style home by the master Berkeley Architect Henry Gutterson. It together with the Marsh House were built as two side-by-side homes on one parcel with a shared garden planned by the notable Landscape Architect Mabel Symmes, who designed Blake Garden in Kensington, which was also built for two homes but since subdivided. The Sperry-McLaughlin House is **one of Gutterson's most notable works in Berkeley**. The Marsh-Sperry Garden, of which the gardens at 1450 are an integral part, is **the best surviving work** of landscape architect Mabel Symmes in Berkeley.

BMC 3.24.110.A.c. Architectural Merit (worth preserving for the exceptional values they add as part of the neighborhood fabric).

The Sperry-McLaughlin House is the most physically imposing house on Hawthorne Terrace due to its size and the size of its large corner lot at Vine and Hawthorne Terrace. Recognized at the time as the most significant post-1923 fire home built in the Berkeley Hills in 1924, the house **adds enormous value to the neighborhood**, particularly when considered with its twin at 1440 (the Marsh House). Together the two houses and the garden that they share are **uniquely Berkeley** and uniquely part of the architectural "story" of this particular North Berkeley Hills neighborhood. The original Berkeley Rhyolite wall that surrounds the property along Vine Lane, the redwood grove, and the views of the house itself serve as reminders of a unique time in Berkeley's architectural heritage when Berkeley architects were stamping their own unique vision on period styles and using local

materials and plants to do so. As the only known architectural examples of twin homes and gardens by Gutterson and Symmes as collaborators; the only remaining family compound designed by Gutterson and Symmes; and as a particularly significant example of each of their work, the Sperry-McLaughlin House (and the Marsh House) and gardens are worth preserving for the **exceptional values that they add as part of the neighborhood fabric.**

BMC 3.24.110.3. Cultural Value

The Sperry-McLaughlin House has a unique place in the cultural history of Berkeley and the region as a whole, and remains of considerable cultural value to both. First, it expresses the indomitable spirit and forward thinking of Berkeley residents. Its construction occurred within the context of the **rebuilding of Berkeley after the 1923 Fire** and the emergence of the **Second Bay Area Style of design**, of which Gutterson was a proponent. Mabel Symmes, the garden's landscape designer, was **one of a few pioneering women landscape architects**, including Willa Clair Cloys Carmack (another well-known female Bay Area Landscape Architect), who trained in the fledgling landscape design department at Cal under Katherine Jones, the departments' first woman lecturer.

Second, the Sperry-McLaughlin House and gardens also have enormous cultural value insofar as **early efforts to preserve and restore the environment were centered in this home.** The early phase of California's environmental movement is exemplified by **the work of James C. Sperry (the home's first owner) on behalf of Save the Redwoods League to preserve California's Big Trees** while he lived in the home. The location of a redwood grove in the home's landscape is particularly poignant as is the inclusion of a dawn redwood, likely one of the first planted in California by Symmes after their virtual extinction.

Finally, the home's second owners – the McLaughlins – had enormous impact on Berkeley from a cultural perspective. Donald McLaughlin headed the University Regents at a time of growth both in terms of student population and new campuses and shepherded the Regents through their various travails at the height of the Free Speech Movement at meetings in his home. Sylvia, of course, through her establishment of Save the Bay and work numerous other environmental organizations literally **saved San Francisco Bay and birthed the second phase of the local environmental movement at her kitchen table at the 1450 House.** Even the frequent social events that took place in the home were culturally important insofar as they brought members of the Berkeley community from all walks of life – artists, musicians, politicians, University officials and faculty, business people, neighbors, and activists -- together to interact and get to know one another in a unique and informal setting. Many enduring friendships and relationships were formed in the Sperry-McLaughlin house, some of which endure to this day and have impacted Berkeley's culture and the lives of Berkeley citizens.

BMC 3.24.10.4. Historic Value

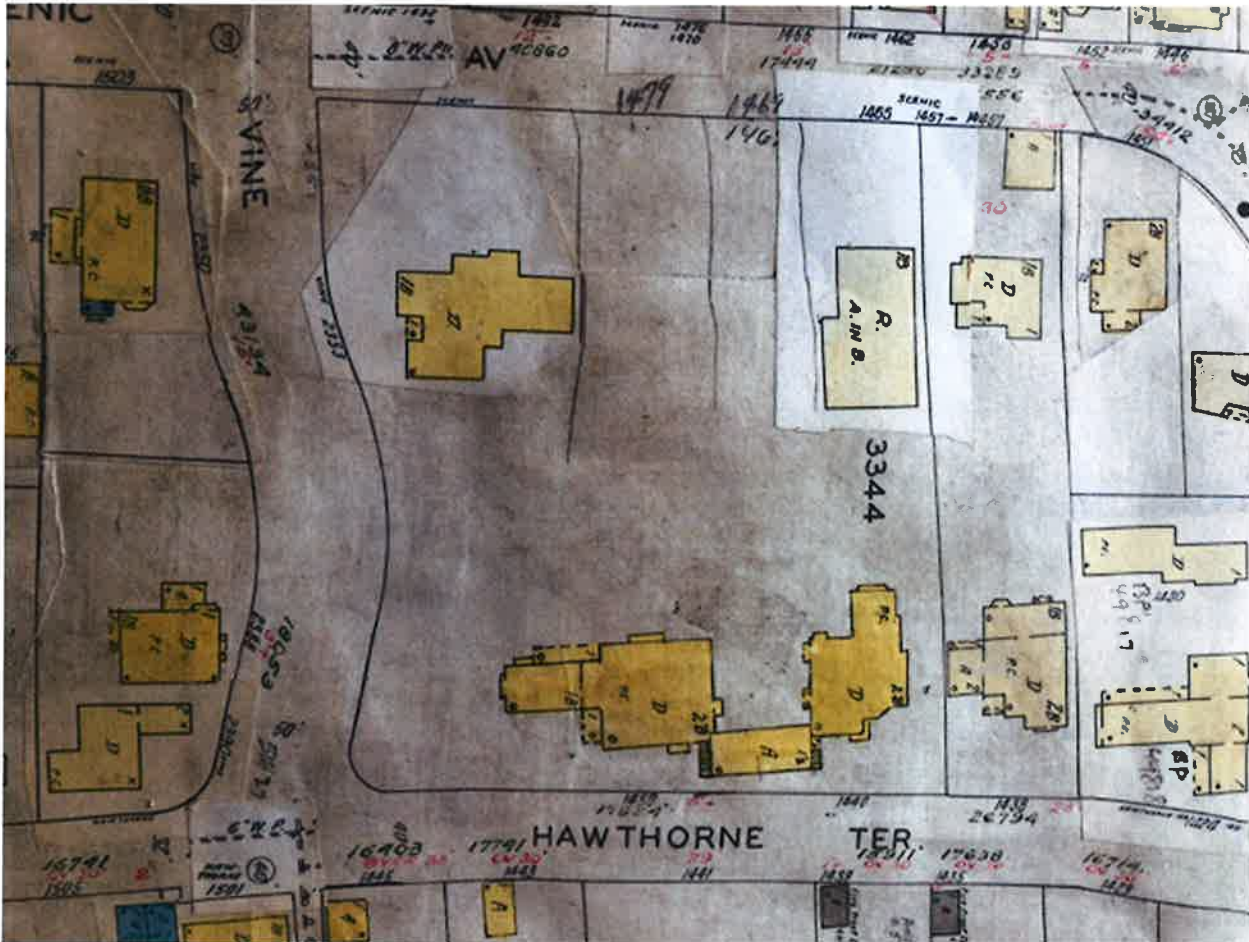
The Sperry-McLaughlin House and its landscape and grounds (together with Marsh House) uniquely expresses the history of Berkeley. It was designed over 50 years ago by one prominent Berkeley High School graduate (Henry Gutterson) and lived in by another (Donald McLaughlin). Key events took place here, including James C. Sperry's work on behalf of the Save the Redwoods League (illustrating Berkeley's ties to those key early conservation efforts) and Sylvia McLaughlin's founding Save the Bay with two friends at her kitchen table. Moreover, key events took place within its walls including meetings of the U.C. Regents during the Free Speech Movement in the 1960s, the establishment of Save the Bay, numerous meetings of environmental, preservation, and historic organizations, including Citizens for Eastshore State Park (which resulted in the McLaughlin Park), that had a major impact on the history of Berkeley and the City we know now. As the home of one of the city's most cherished and prominent figures, Sylvia McLaughlin, the house has enormous historical value for the City of Berkeley and the Region as a whole. (photo below: Save the Bay and personal collection)



DESCRIPTION OF PROPERTY

1. THE SITE AND SURVEY

The Sperry-McLaughlin House (1450 Hawthorne Terrace) and Marsh House (1440 Hawthorne Terrace) were originally part of the same North Berkeley parcel boarded by Hawthorne Terrace, Vine Lane, and Scenic Avenue. It was part of the Berkeley

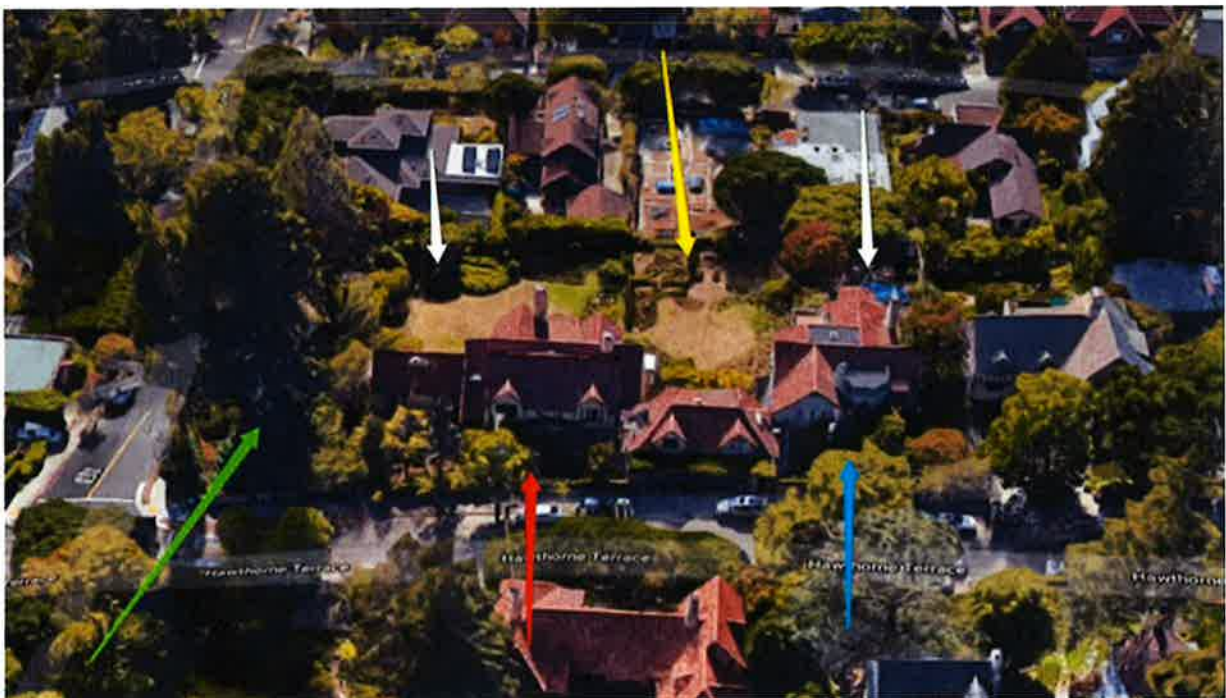


View Homestead plot carved out of the Carlisle Tract.¹ Exhibit A shows the houses' orientation on the original plot as reflected in the Sanborn Map. 1450 sits at the Northwest corner of Vine Lane and Hawthorne Terrace; 1440 is immediately to the North. An attached garage structure joins the two houses. (Photo: MTU Consultants). After the property was subdivided, houses were constructed fronting Vine Lane and Scenic (these are not covered by this application).

¹ The Alameda County Assessors Map shows the parcel as having been originally part of the Rancho of Vicente & Domingo Peralta. According to the legal description it was part of a tract Beardslee deeded to Carlisle in 1887. Berkeley Maps of a later date are more ambiguous as to the tract name when it was conveyed to James C. Sperry. See Appendix B (maps).

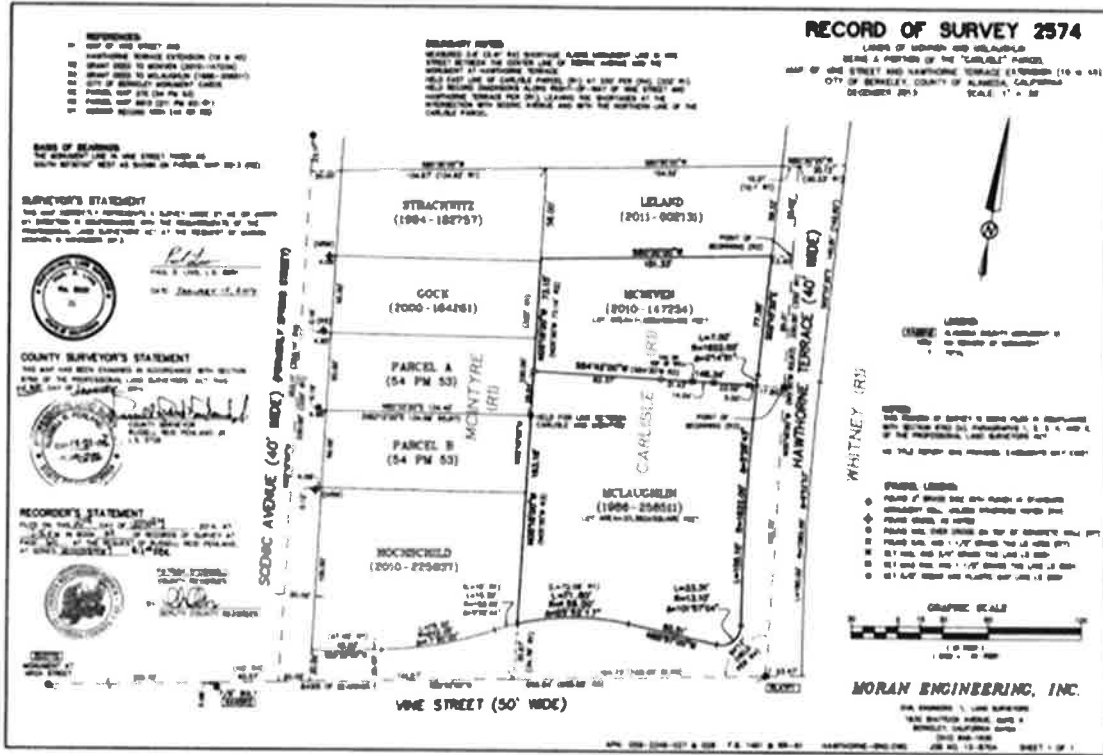


Above is a view from above of the 1450 and 1440 Hawthorne Terrace Properties (photos: Google Earth, January 2018)



- Red Arrow: The Sperry-McLaughlin House (1450 Hawthorne Terr)
- Blue Arrow: The Marsh House (1440 Hawthorne Terr)
- Yellow Arrow: The “shared” formal center yard with arbors (garage structure visible along Hawthorne Terrace frontage)
- White Arrows: the rear gardens flowing out of center area
- Green Arrows: points to natural landscaping and Redwood grove

2014 Survey (reflecting subsequent subdivisions).



Record of Survey 2574 Map Bx 34 Pg 34

Hawthorne Terrace was hard hit in the 1923 Berkeley Fire, and no existing structures remained on the 1450-1440 property after the fire swept down the hill. What was left was the hill terrain, which is a gentle South/Southwestern slope towards Vine Lane. The houses and their landscape conform to the hill's gentle slope. 1440, the Marsh House, sits slightly higher on the hill to the North, and its front entrance features a staircase down to the front door bordered by a retaining wall. The entrance of 1450 (the Sperry-McLaughlin House) is level with the street, and likewise fits in with the gentle rise of the slope. The rear and side gardens of both feature original Berkeley Rhyolite walls throughout including along the Vine Street frontage of 1450.

As discussed further below, Gutterson designed both houses in a so-called Period Revival Style, featuring stucco and wood surfaces, and terracotta tile roofs. They have an English country home feel, with formal rooms that are both handsome and

comfortable with magnificent views. The houses were clearly built for entertaining in the California way, with parties flowing from indoors to outdoor spaces.

The two houses are fraternal twins, meaning they are of comparable designs but individually distinct. They are connected by a two-story garage/apartment structure along Hawthorne Terrace featuring an arbor with original trumpet vine. In the rear, there is a central shared garden between the two homes (behind the garage/apartment structure) with a concrete patio featuring a wisteria-covered arbor that runs from French doors off the Marsh house dining room to French doors off the dining room of the Sperry-McLaughlin House.

The cement patio is original as is the design of the formal center lawn, flower beds and shrubs. At the Western edge of the center lawn sits another smaller arbor covered by rose vines and wisteria. This arbor is not original to the property; it was built to replace a Chinese tea house designed by Gutterson (see Appendix E) that was not extant by the late 1950s/early 1960s when the two properties changed hands.

Unlike most of Gutterson's designs for homes in St Francis Woods in San Francisco, where the façade was of central importance, these two houses keep their majestic aspects hidden, showing them on the West Elevations towards the private garden.

Part of this effect is of course due to the lovely Marsh-Sperry Garden at the rear. The



property was fully landscaped as part of a single design plan by Mabel Symmes (UC 1896) in a closely similar style to the garden that she designed for the Blake Estate in Kensington. As with the Blake Garden, the Marsh-Sperry Garden (so called on the original blue prints) features formal areas including lawns, hedged rose and

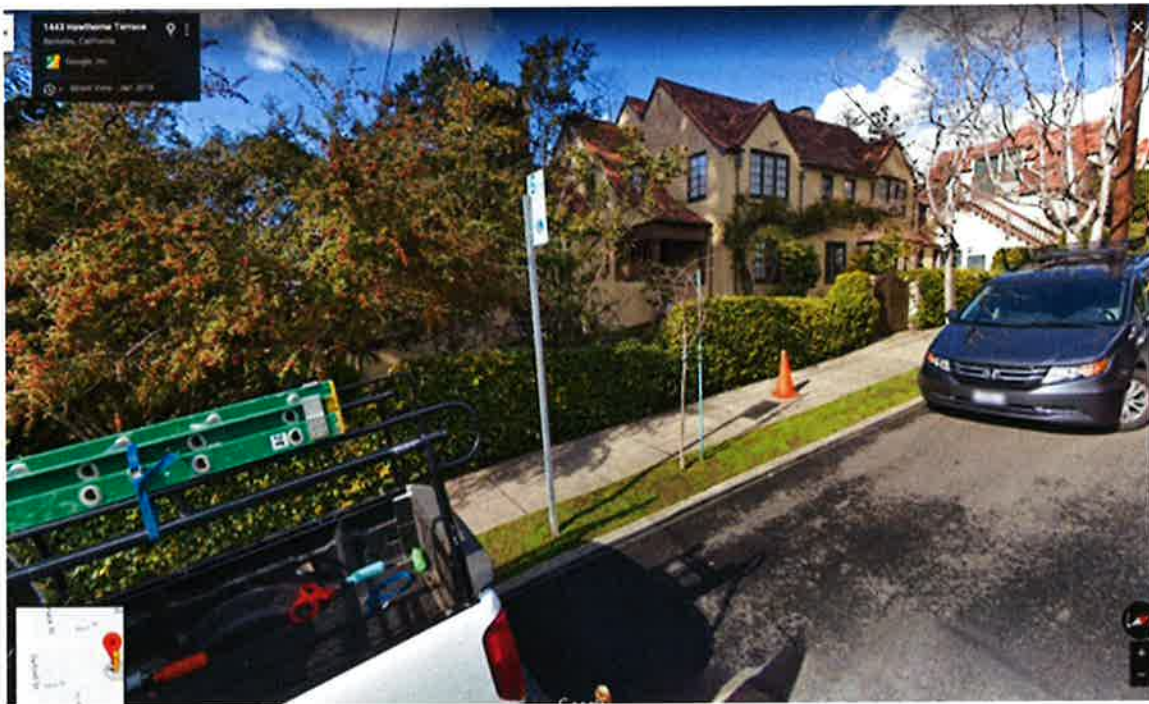
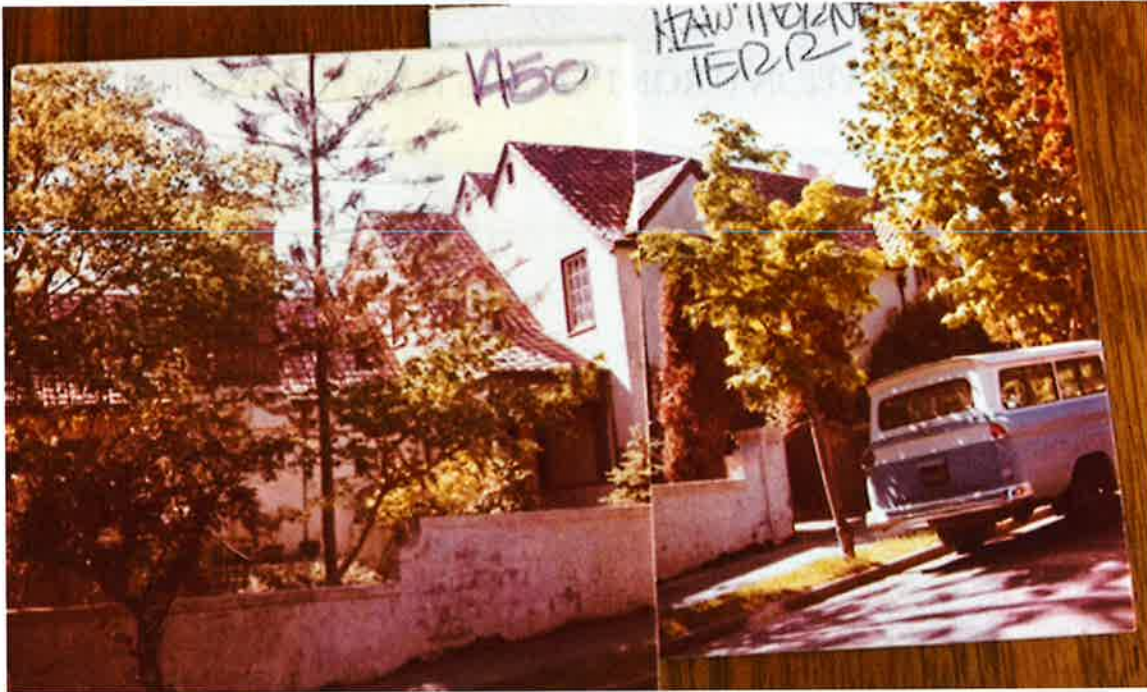
iris beds, and water features flowing into a more natural "woodland" featuring native and non-native trees and shrubs. The entire property is crisscrossed with numerous paths and open vistas to the San Francisco Bay.

2. THE EXTERIOR OF THE SPERRY-McLAUGHLIN HOUSE
EASTERN ELEVATION (FRONT FACING HAWTHORNE TERRACE)



(Top: undated photo courtesy of BAHA; bottom: January 2018 Google Maps Photo)

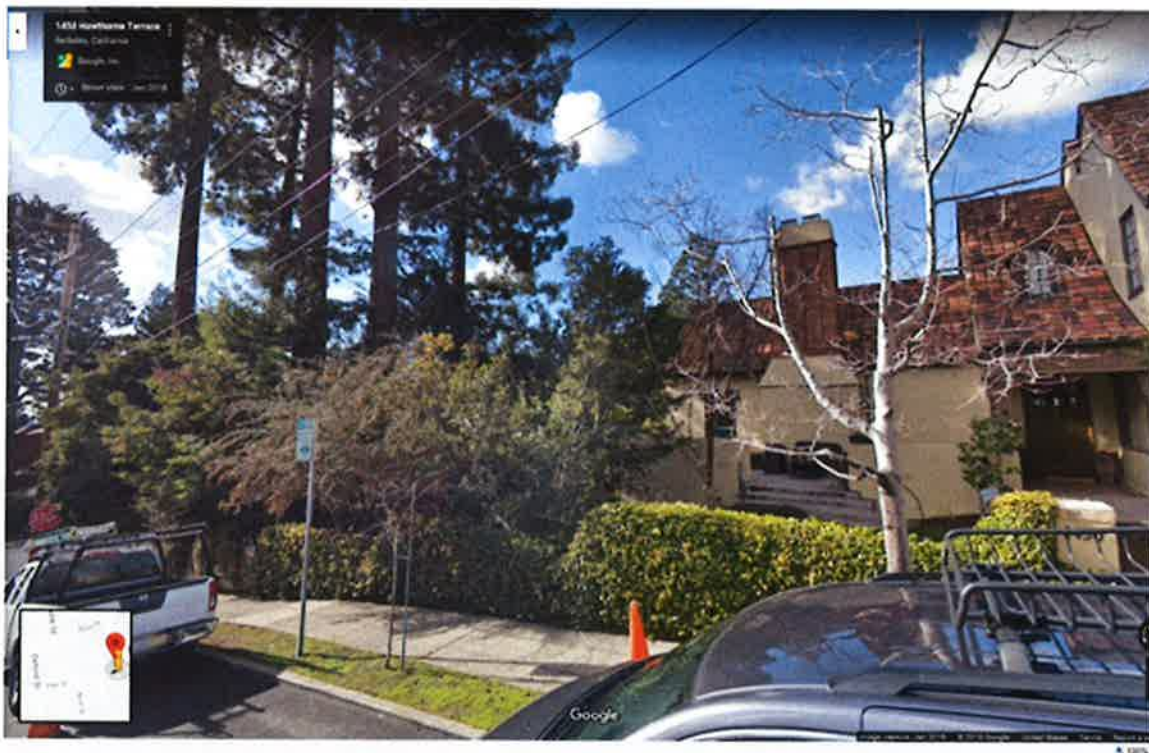
ADDITIONAL FRONT STREET FACING VIEWS



The gentle downward slope is visible in both pictures (top photo, undated, courtesy of BAHA; lower, January 2018 Google Maps)

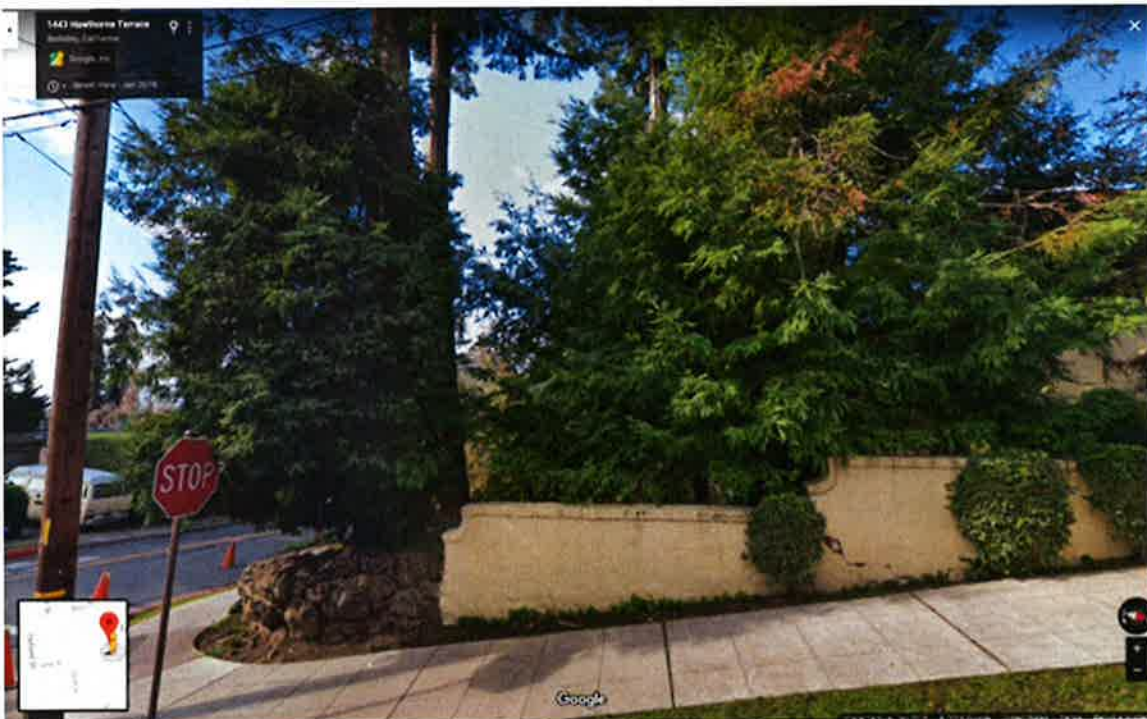


Above Photos (c. 1960s) shows Sylvia McLaughlin talking with a neighbor in front of 1450 (courtesy of BAHA); Lower Photo: similar view Jan. 2018 (Google Maps)





Above: front patio off living room; original railing, door, path and shrubbery visible (photo courtesy of BAHA). Below: original walls at corner of Hawthorne Terr. and Vine Lane. The Redwood Grove is visible. (photo: 1/18 Google Maps)





The photo at the left and below shows the intricacy of the wood detail, here at the portico, but that appears throughout the exterior of the house. Note the original light fixture and (below) the copper gutter. The copper gutters are original throughout both houses.

Photos courtesy of BAHA.



SOUTHERN ELEVATION



The photo to the left shows the Southern Elevation (facing Vine Lane) with unique window design, wood trim, and peaked tiled roof; the photo below is also of this elevation (taken from the front looking West) and shows the original landscaping, birdbath, and East-West stone path and low rock wall designed by Symmes. Wire deer fencing, and gate are later additions but the metal railing visible is the original Gutterson design. (photos courtesy of BAHA)





Photo above shows view looking East/Northeast from Vine Lane. The original intact Berkeley Rhyolite wall and Redwood Groves are visible as is a mature live oak and other landscaping.



Photo above shows Southwestern corner of Sperry-McLaughlin property; Redwoods are visible as are several original trees and shrubs. (Photos: Jan. 2018 Google Maps).

REAR VIEW (WESTERN EXPOSURE)



These photos show the way in which Gutterson created a central structure running North and South with peaked roof and then inserted shapes and masses off that central core opening to the West (Bay view). (Photos courtesy of BAHA).



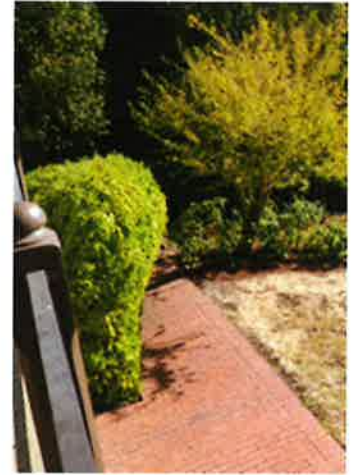


Left: Photo of circular staircase with original railings that connects deck on first floor to lower arcade/brick tile patio (photo at right).

Below: Photo looking from wilderness area, across original pond (recently filled in), towards rear of Sperry-McLaughlin House; Marsh House is visible in the rear.

Notice the Agapanthus, which is original and also appear in Symmes's Blake Estate garden.

(Photos courtesy of BAHA)



NORTHERN ELEVATION



Photo above McNiven; other photos courtesy of BAHA



GARAGE STRUCTURE



Photo above shows the Eastern Exposure of the garage structure between the Sperry-McLaughlin and Marsh Houses. The trumpet vine and arbor are original as are the fig vines covering the exterior walls. (photo: Jan. 2018 Google Maps)

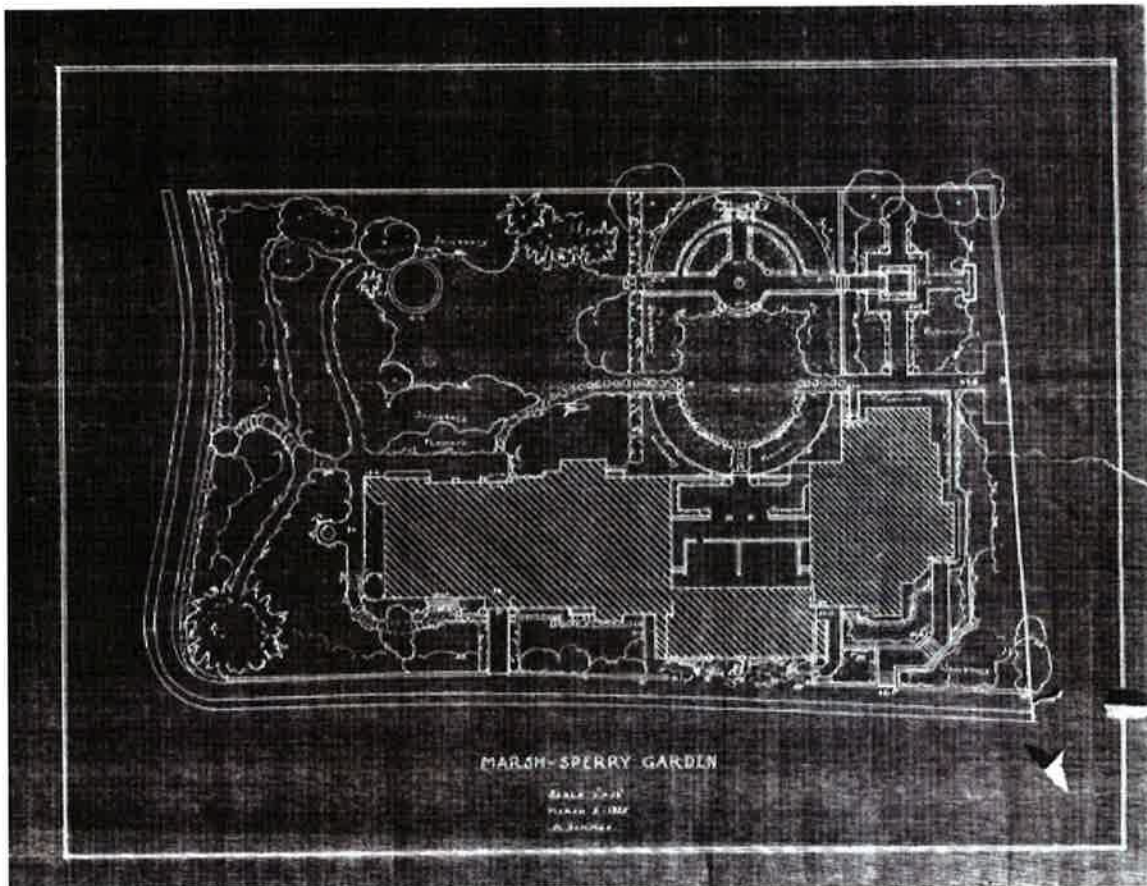


Photo to the right shows the Western Exposure and looks down into the twin laundry yards of the 1440 and 1450 houses. Because the houses stand on a slope, the laundry yard of the 1440 house sits higher than that of the 1450 House and is supported by retaining walls running East to West and North to South. These laundry areas were accessible to the basement laundry rooms of each house. The rooms above the garages were designed as servants' quarters. Notice even the garage has windows! The common patio and arbor shown on the previous page abuts these laundry yards to the West. (photo courtesy of BAHA)

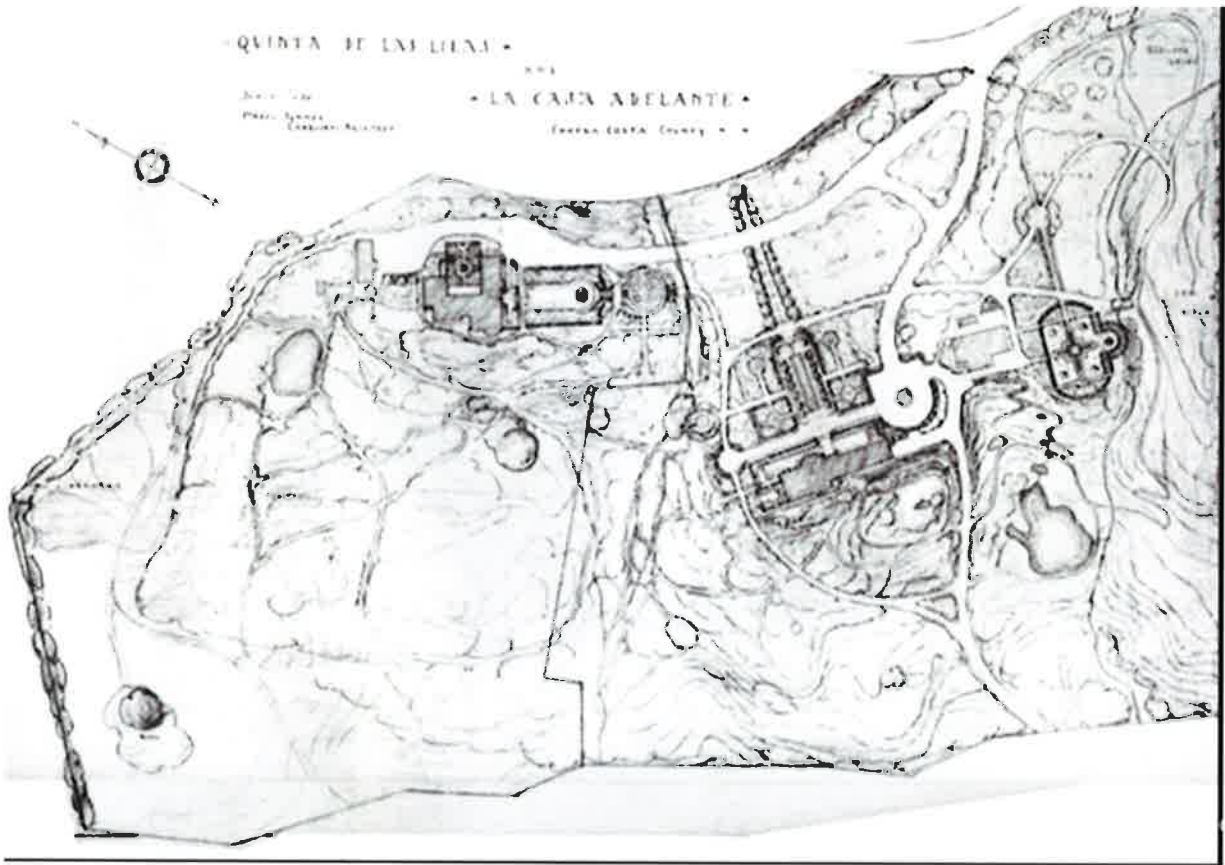
3. DESCRIPTION OF MARSH-SPERRY GARDEN



A comparison of this Google Earth view of 1450 and 1440 show that the basic design and key features of Symmes' original design has been preserved. The Rhyolite rock walls, paths, lawns and grove of trees and shrubs remain. Notice the formal center lawn between the two homes and the sloping lawn behind the 1450 house that spills into the mini-wilderness of redwoods and other native trees such as mature live oaks and other species.



SIMMILARITY BETWEEN MARSH-SPERRY GARDEN (c. 1923) AND THE BLAKE GARDEN (c. 1923-25)



Above is a black and white reproduction of Symmes's original design for the two houses on the Blake property on 77 Rincon Rd. in Kensington. Below is a focused view on the gardens near what is now Blake House. The inclusion of formal rose gardens bordered by hedging (indicated by red arrows) is very similar to features of the Sperry-Marsh

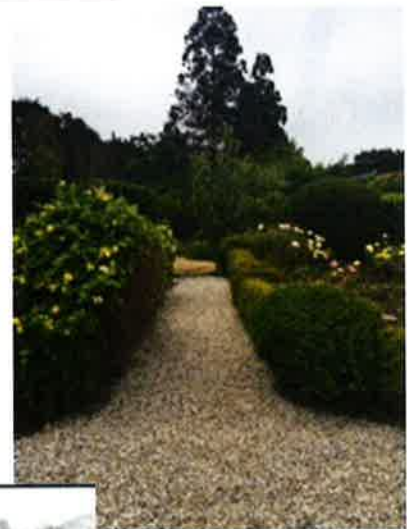
Garden as is the inclusion of wilderness elements (indicated here by the blue arrow) including its Redwood canyon which is a larger version of the Redwood grove at the Sperry-Marsh Garden.



SAME DESIGN: Formal Rose Beds surrounded by boxwood hedging



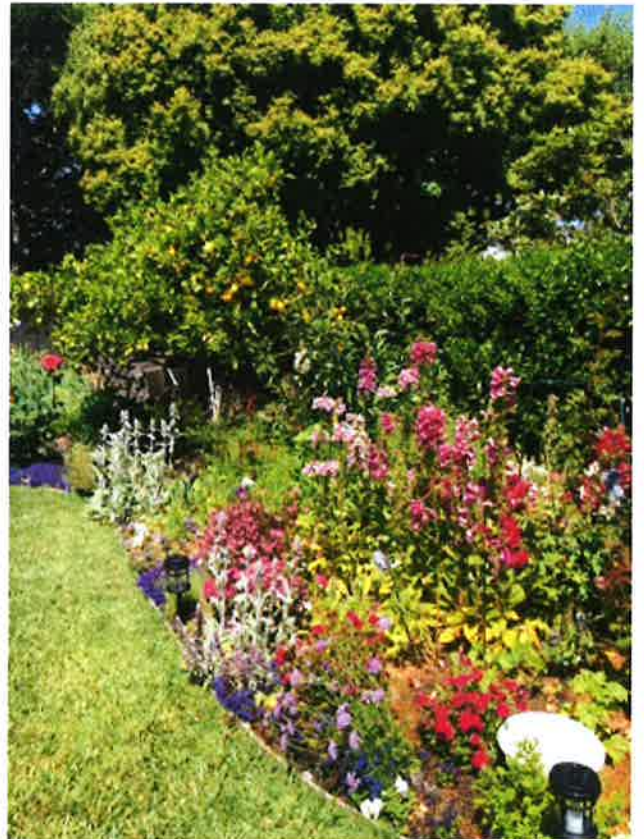
Top & bottom
pics: Blake
house
(undated)
courtesy of
UCB CEB
archives; color
photos, Sperry-
Marsh garden
2108 (McNiven
family)



SIMILAR PLANTING, WATER FEATURES AND HARDSCAPING



Left: undated photo of bird bath in Blake Garden with Fox Gloves (digitalis) surrounding; Below: color photographs of birdbath in Marsh-Sperry Garden (photo courtesy of BAHA) and foxgloves (photo, McNiven family)





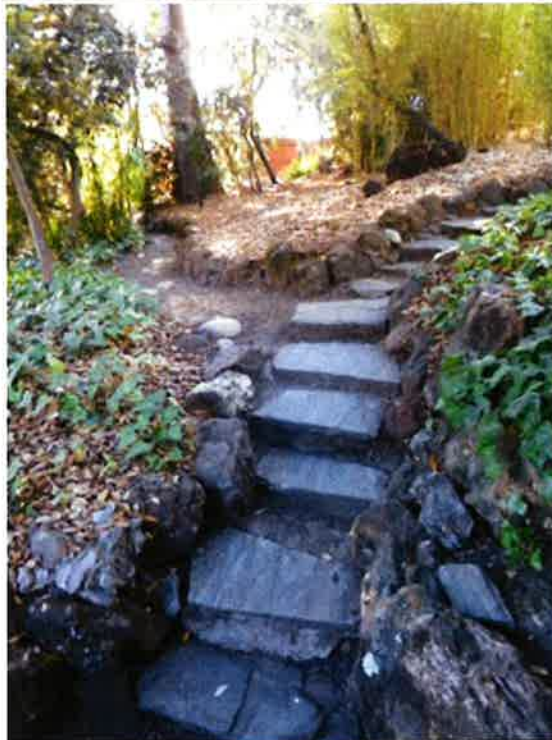
Left: photo of water feature at Blake Gardens; Below: photo of fountain at Marsh-Sperry Garden (photo courtesy of BAHA). Notice Chinese pottery used on both (as tile trim on Blake Gardens fountain; as fountain spout in Marsh-Sperry Garden).





Left: photo of Redwood grove in Blake Gardens; Below, photo of Redwood Grove in Marsh-Sperry Garden (part of Sperry McLaughlin grounds).





Top photo: Path, Blake Gardens, circa 1958 (CED archives); lower photos: Path Marsh-Sperry Garden, circa 2016 (photos courtesy of BAHA)



The comparisons on these past pages illustrate the integrity of the Marsh-Sperry Garden as well as the strength of Symmes' vision for the landscape, namely to use the natural features of the property including the sloping hill and Western exposure, to create an unusual combination of a formal garden with an (almost) untamed wilderness. The integrity, strength of vision, and careful execution are worthy of preservation both on their own architectural merit as well as their cultural and historic significance.

4. IMPORTANCE OF GARDENS & LANDSCAPE TO HOUSE

The gardens are important to the integrity of Gutterson's overall design for the twin houses. Gutterson's design for each house made the most of the site, which has a wonderful view of the Bay, and the Marsh-Sperry Gardens. The 1450 Sperry-McLaughlin House is arranged in along a single axis on the first floor, with all rooms (except the kitchen and original servants' quarters) facing West for a full Bay view and view of Symmes's landscape design at the rear. The Southern exposure faces the redwood grove; the northern façade faces the shared patio and opens onto it with French doors.

These axis and cross axis views are visible immediately upon entering the heavy wooden front door, where you are faced with double French doors opening to the magnificent view of the landscape and Bay beyond.



Those French doors are down a series of small tiled steps that open to a lovely deck that provides a view of the sloping lawn, lily pond (recently filled in), shrubs, roses, and the Bay beyond. Windows on the stairs also face West and have a garden view. (photos: BAHA)



The abundance of windows in the living room likewise brings the natural beauty front and center in the home. (photos courtesy of BAHA).



The photograph of the dining room shows how Gutteson created a natural flow from the interior dining space to the exterior



entertaining space and integrated the two homes into what was essentially a family compound. The steps leading up to the dining room of the Marsh house are just visible outside on the shared patio. The working fountain is also visible to the right through the panes of the

closed French door. The dining room has views of the shared lawn and garden and the Bay beyond.

HISTORIC INTEGRITY AND CONDITION

Historic integrity consists of seven aspects: location, design, setting, materials, workmanship, feeling, and association. The 1450 house has not been moved. Its design is unchanged. Materials and workmanship are nearly original and intact. The site of the house, the landscaping and the immediate area are largely unchanged from their construction post 1923 fire and convey the historic setting, feeling, and association. Therefore, the property retains all seven aspects of historic integrity

The Sperry-McLaughlin House is in excellent shape for its age. The original windows, exterior doors, gutters, and woodwork are intact. Notably the original windows of both houses were constructed of Alaskan cedar which is particularly durable and (of course) no longer obtainable. Both houses have been reroofed using the original terracotta tiles and, where necessary, identical replacement tiles. Thus, they have historic integrity.

The house features three stories with an attic and chimneys that have been braced for earthquake safety. The usable lowest story at the 1450 house features a large brick fireplace which is serviced by the central chimney.

The landscaping for both houses (referred to herein as the Marsh-Sperry Garden based on Symmes's plan) has been little changed from Mabel Symmes' original design. The lawns, shrubs, paths, walls, working fountain, hedging, and redwood grove remain. The rose garden in the center of the property remains -- albeit with replacement plants -- and the original stone pond behind the 1450 house is intact (although recently filled with dirt). When filled with water, the pond featured water lilies and was home to fish, turtles and numerous dragonflies and other native species. The fountain in the central shared patio has been recently restored and is working. The central shared patio and arbor features the original cement surface, wooden arbor, and even the original wisteria plant.



(photos courtesy of
BAHA

ASPECTS TO BE PRESERVED

- The exterior of the Sperry-McLaughlin House including but not limited to the following:
 - All exterior stucco and wood facades;
 - All chimneys;
 - All exterior wood trim including but not limited to:
 - Window frames
 - Cove off of front portico
 - Finials
 - Cross beams
 - Bays and bay windows
 - Doors and door frames
 - All copper gutters, drainpipes and downspouts and related copper fixtures;
 - All roof tiles (the tile roof);
 - All doors and windows including but not limited to:
 - The front door
 - All exterior French doors, including those from the dining room to the exterior shared patio and from the front hallway to the rear deck over the arcade
 - The “Dutch door” in the living room
 - All dormer glass windows
 - All original exterior light fixtures including the fixture over the front door and dining room door;
 - All eaves and dormers;
 - All window wells
- The exterior of the attached garage structure and front arbor including but not limited to:
 - The wood arbor over the garage bays
 - The garage doors and door frames
 - The trumpet vine growing over the front arbor
 - The windows and window frames
 - The tile roofs
 - All chimneys

- Exception: the front door of the so-called in-law apartment, which is not original and may be replaced by a more architecturally appropriate door.
- All exterior hardscape features including but not limited to:
 - Rear concrete patio with fountain and retaining walls;
 - Frieze of Sylvia McLaughlin and brothers in shared patio area;
 - Rear wood arbor with wisteria (shared with Marsh House);
 - Side so-called laundry yard behind shared patio area
 - All exterior stairs
 - Rear arcade and brick tile patio off lowest story
 - Front patio in front of kitchen area at front of house
 - Front patio off living room
 - Front stucco wall
 - Front saloon doors
 - Front tile entrance way
 - All metal railings
 - Front stairs and railings
 - Paths in “wilderness area” of landscape
 - All Berkeley Rhyolite stone walls including those located in the shared area with the Marsh House
 - Original “saloon” gate on Vine Lane
 - Original Berkeley Rhyolite stone wall along Vine Lane and corner of Hawthorne Terrace
 - Original stone pond at rear
 - Arbor at West-End of shared yard including climbing rose and wisteria
 - Existing paths and pathways
- The Marsh Sperry Garden, including but not limited to:
 - The center and rear lawns
 - The ponds (which may be restored)
 - All wisteria vines
 - All hedges

- The climbing rose and wood trellis at the front of the house
- The redwood grove
- The Wilderness landscape area towards the Southern side of the lot, including paths and stairs
- All rose beds
- All flower beds
- All mature trees including the live oak along vine lane and the dawn redwood
- The cedar trees in front of the rear trellis
- Fig vine on front wall

HISTORY



1. BUILDING OF THE HOME

When fire swept down through the North Berkeley hills on September 17, 1923, it took with it many of the primarily brown wood-shingled homes that dotted the area. The devastation is visible in the photos above. One of these homes was the famous “grey gothic” owned by Colonel Edwin Langdon, which together with its equally famed orchard on Hawthorne Terrace was burnt completely.² Langdon commissioned Henry H. Gutterson to design a majestic English Tudor half-timbered house at 1441 Hawthorne Terrace as a replacement. Langdon sold the property immediately to the North to a friend, General McNeill, who also had Gutterson design his home, a much smaller English style cottage.

After James C. Sperry purchased the lot opposite the Langdon and McNeill properties, he too commissioned Gutterson to design homes for his family and for his sister Marion Marsh. At the time, the homes were the “most expensive” structures in the fire area as reported in the article that

Berkeley in its restored hillside region can now boast one of the most artistic residential regions in the state. The fire has brought a revival of the early California type of architecture and the Spanish motif, carried down from the days of the dons, predominates the hill region.

The distinction of building the most expensive structure in the fire area belongs to J. C. Sperry, who recently took out a permit for a dwelling at Hawthorne Terrace and Vine street to cost \$65,107. The Japanese Students' club of the University of California took out the last permit of the year to replace its building on Euclid avenue near La Conte at a cost of \$25,000.

² “Architect Left Mark on Neighborhood,” *Berkeley Gazette*, Mar. 21, 1979.

accompanied the headline and photos shown above from the *Oakland Tribune* dated September 17, 1924, lauding the rapid re-development of the fire-scarred hills.

Gutterson also designed three other post-fire homes on Euclid Avenue just above the Langdon and McNeill properties³, as well as another "favorite Gutterson"⁴ on Bayview. Other architects too were brought in to design new residences along Hawthorne Terrace including Bernard Maybeck (1408), John Hudson Thomas (1427, 1435), Julia Morgan (1411), and Walter Ratcliff (1431). A Julia Morgan house, at 1404 Hawthorne Terrace, survived the fire.

The Sperry-McLaughlin and Marsh homes adopted so-called fire-proof construction, including tile or slate roofs and cement or stucco exteriors. These features represented a shift away from the brown wood-shingled designs of the so-called first phase of Bay Area residential design that Morgan, Maybeck and others had made so famous. He also used locally sourced stone (Berkeley/Northbrae Rhyolite) for the boundary walls.



Sperry hired Oakland-based builder Axel (a/k/a Alex) Cederborg to construct the two homes. Cederborg was a well-known builder who constructed many significant homes in Berkeley, Oakland and Piedmont, including a house for the Ghirardelli family in Piedmont. Cederborg

applied for a permit to build the homes and the apartments and garage for the astronomical sum of \$68,107. The application is shown at left (and in full size in the Appendix). The permit application was reported in the *San Francisco Examiner* (Aug. 2, 1924), probably due to the high price, \$75,000, when the standard price of an average luxury home was closer to \$5000-10,000.

est city or all times.

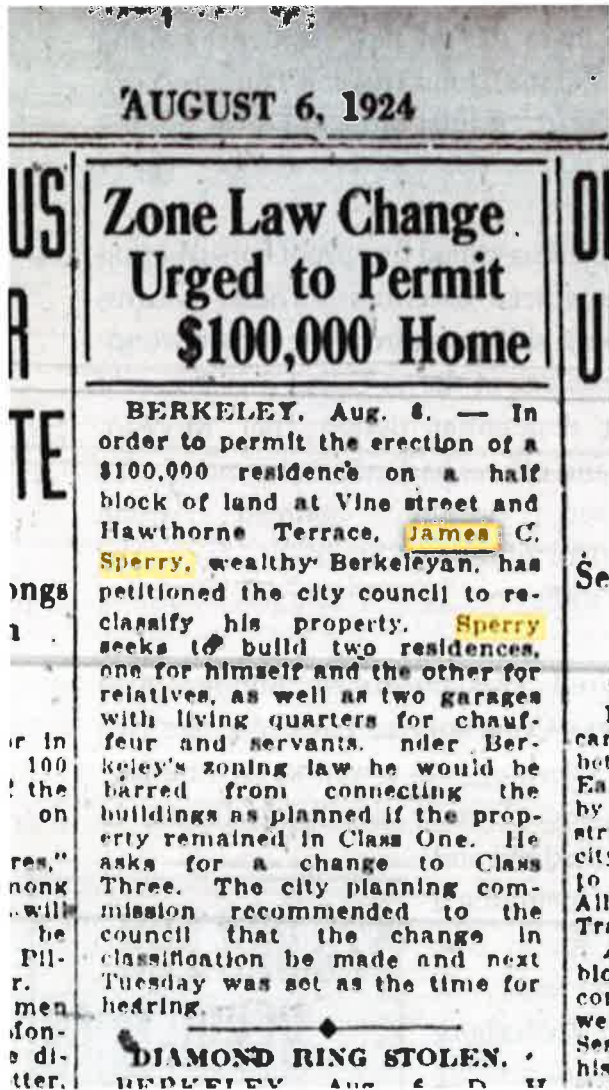
\$75,000 FOR RESIDENCES

Two unusually fine residences are to be constructed in Berkeley at a cost of \$75,000 by J. C. Sperry, 3428 Hearst Avenue, Berkeley.

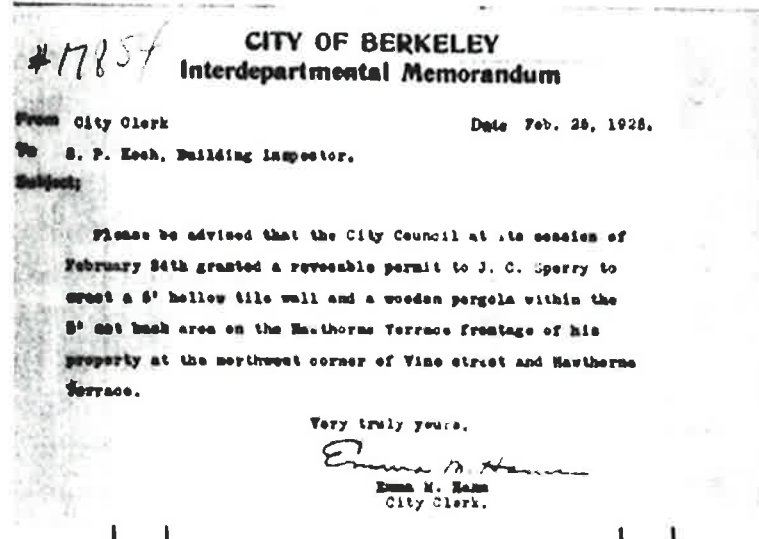
³ These included the house at 1460 Euclid Ave (1924) that Gutterson designed for Amos Huggins on the foundation of their prior home that burned in the fire. Their yard was reportedly landscaped by Willa Cloyes Carmack, demonstrating (yet again) that Gutterson worked with landscape architects frequently (and female landscape architects at that).

⁴ *Id.*

Sperry ran into zoning difficulties and had to apply for special permission to build the twin homes with the connecting garage/apartments. Presumably he received this permission because a permit was issued on August 24, 1924 (Permit No. 17854). Note that the quoted price had risen: according to the article, the cost would be \$100,000, a stunning sum in those days. Likely the increase was due to the inclusion of the garage structure.

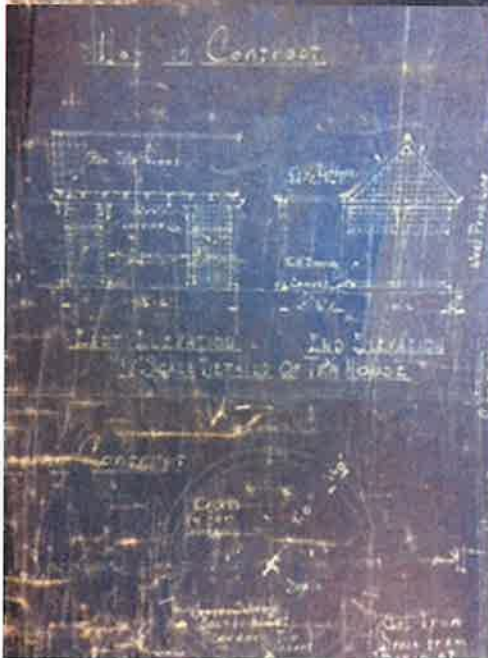
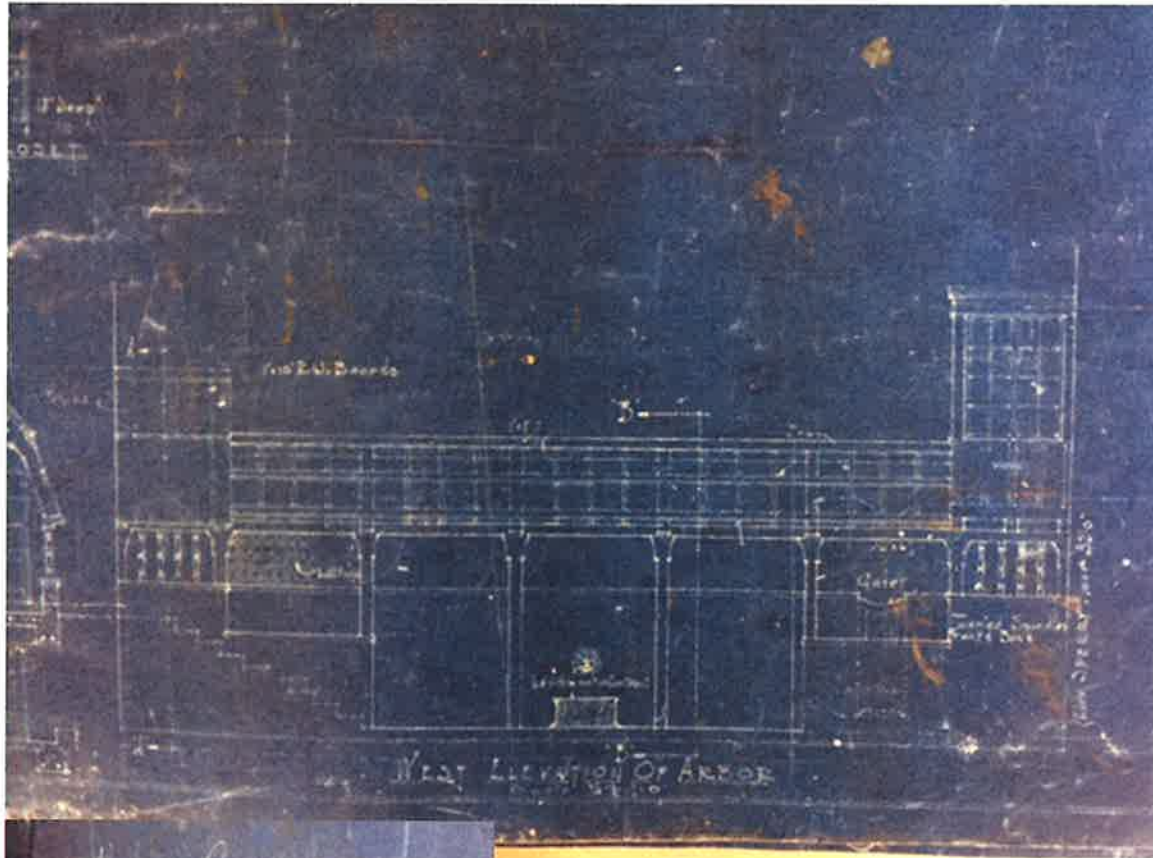


On February 25, 1925, via interdepartmental memo from the Berkeley City Clerk, the City's Building Inspector S.P. Koch, was advised that the City Council at its February 24th hearing "granted a revocable permit to J. C. Sperry to erect a 5' hollow tile wall and wooden pergola within the 5' setback area on the Hawthorne Terrace frontage of his property at the northwest corner of Vine Street [sic] and Hawthorne Terrace." That pergola is still standing in front of the garage/apartment structure between the two houses along Hawthorne Terrace and is covered with the original trumpet vine.



(article above from *Oakland Tribune*, dated Aug. 6, 1924; memo at right courtesy of BAHA)

The McLaughlin family was not able to locate the original plans for the house prior to its sale in late 2016; however, McNivens retain the original plans for Marsh House which includes Gutterson's design for the wisteria arbor. Note the fountain is indicated with a note suggesting that the specific design would be added later.



These plans also include hardscaping features such as an "Tea House," which as noted above, did not survive.

The last contemporaneous record of the construction of the Sperry-McLaughlin and Marsh Houses appears in a 1927 article in the *Oakland Tribune* promoting recent work by Axel Cederborg in Piedmont and Berkeley.⁵ That the Sperry-McLaughlin and Marsh Homes were important additions to North Berkeley at the time is evidenced by the

⁵ "Fine Piedmont Residences by Cederborg," *Oakland Tribune*, April 24, 1927 (noting the construction cost for both homes was \$70,000).

contemporary press quoted above. Their construction proved that Berkeley was resilient and remained an attractive place to live despite the devastation of the fire. That alone makes them significant to the history and cultural context of this city.

The two houses remain key parts of the historic North Berkeley neighborhood filled with examples of the so-called second phase of Bay Area architecture. They were both recognized in the Berkeley Urban Conservation Study (see Appendix G) and were specifically called out in two tours sponsored by the Berkeley Architectural Heritage Association: one lead by Susan Dinkelspiel Cerny in 1979 entitled, "Henry Higby Gutterson: Residential Work in Berkeley," and another in 1986 entitled "a Ramble 'Round the Rose Garden." They have additional significance historically, architecturally and culturally based upon the individuals and events with which they are associated, as described below.

2. HENRY GUTTERSON (THE ARCHITECT)

Henry Higby Gutterson, a graduate of both Berkeley High School and U.C. Berkeley, had a long and distinguished career as an architect in the Bay Area where he designed residences and public buildings. He was most closely associated in his early years with John Galen Howard and during his mature years with Bernard Maybeck. He was one of the practitioners of the Bay Area Style, with Julia Morgan, Bernard Maybeck, and John Hudson Thomas. Rather than jettison the old, Gutterson played with popular building styles such as English Tudor, English/Irish cottage, French Beaux Artes, Italian villa, Swiss Chalet and even some Flemish peaked roof styles.

His buildings, however, were far from slavish copies of these styles—far from it. Instead, he utilized a given style in service to the needs of his clients appropriate to the site and landscape. As one commentator put it, the thing that made a Gutterson creation unique was "the peculiar way of using historical forms and details, the complexity of forms and spaces, miniaturization, and fully exploiting the site as a major ingredient in creating romantic aura."⁶ Another critic described the "Gutterson look" as being partially stucco with strong wood accents and classical revival detailing."⁷ Heavily tiled roofs, diamond paned



⁶ Woodbridge, Sally, 1988, *Bay Area Houses*, Gibbs Smith, Layton, Utah, page 16.

⁷ Stern, Susan Dinkelspiel, "Henry Higby Gutterson," monograph, BAHHA.

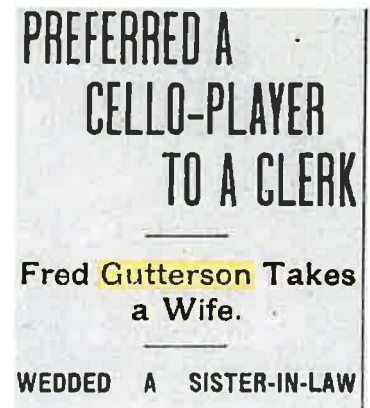
windows, and English style chimneys are also typical Gutterson touches. All these characteristics are present in the Hawthorne Terrace homes.

a. BACKGROUND AND EDUCATION

Gutterson was born in Minnesota on September 8, 1884. His father, Arthur Lincoln Gutterson, was a bank clerk, and his mother Minnie⁸ was a talented singer and music teacher. He had a sister, Geraldine. Arthur's younger brother Fredrick apparently came out to the Bay Area too where he lived with the Guttersons⁹ and joined a local opera company as a cellist.



In 1898, when Henry was almost 14, Arthur filed for divorce against Minnie claiming abandonment. Once the divorce was final, Minnie married his brother Fredrick, causing quite a scandal and making headlines.¹⁰ It appears that Gutterson and his father moved to a home on Virginia Street in Berkeley, and Henry attended Berkeley High School from which he graduated.¹¹ (left: photo *San Francisco Call*, May 30, 1909)



⁸ Some biographies of Henry Gutterson state that his mother's name was Mary, however, her marriage record to Arthur L. shows her name as Minnie Higby, and a marriage date of Nov. 6, 1883.

⁹ Arthur Gutterson and his brother Fredrick were listed in the 1896 voter rolls as living at 2365 Castro in Oakland. Gutterson's profession was listed as accountant; his brother's as musician. Later records show his mother "Mrs. AL Gutterson," as living with the two men with a daughter Grace in the Castro street home. A 1900 directory show all three Guttersons as employed in San Francisco: Mr. and Mrs. Fredrick Gutterson were teaching music on Post Street; AL Gutterson was working at a San Francisco Bank. In the 1900 census, Arthur was living with his sister in Alameda and lists his place of occupation "Book Keeper (Bank)."

¹⁰ "Discord in the Gutterson Family," *San Francisco Examiner*, Aug. 8, 1898; "Preferred a Cello-Player to a Clerk, San Francisco Call, Mar. 11, 1899.

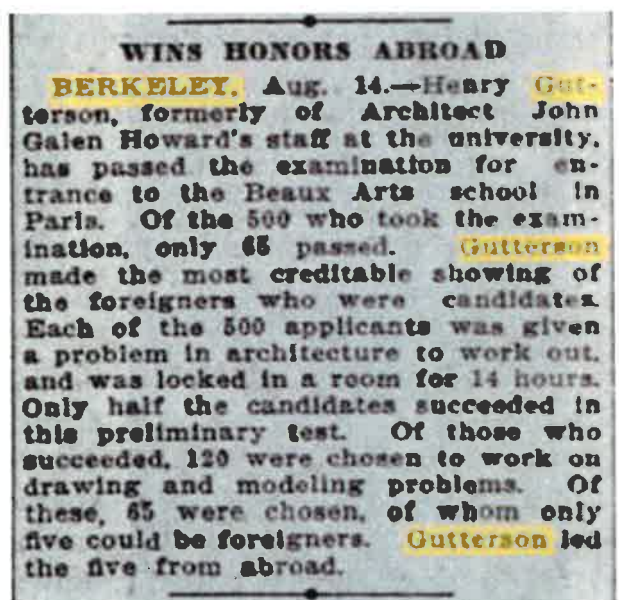
¹¹ Stern, Susan Dinkelspiel, "Henry Higby Gutterson," monograph, BAHA.

It appears likely that the family encountered some financial difficulties. After high school, Gutterson studied at the Mark Hopkins Art Institute in San Francisco for approximately two years. When John Galen Howard started an architectural program at U.C. Berkeley in 1903, Gutterson enrolled. It appears that Gutterson may have paid his way through Cal by working as a laborer for the U.S. Customs Service in Oakland.¹²

When the Architecture Department was initially established, Howard was the sole lecturer.¹³ Although other faculty were eventually added, Howard was a key figure in Gutterson's early life. Not surprisingly, Gutterson was very influenced by his Beaux Arts Style and later subscription to the City Beautiful movement that Howard espoused.

Gutterson graduated in 1906—one of the first to graduate from that department.¹⁴ Around the time of his graduation, Gutterson contributed drawings to the Burnham Plan for San Francisco, which was drawn up by landscape architect and city planner Daniel Burnham.¹⁵

After graduation, Gutterson sailed for France where he followed in Howard's footsteps and studied at the Ecole des Beaux Arts in Paris.¹⁶ As reported at the time¹⁷, Gutterson was one of 500 hopefuls who sat for the Beaux Arts entrance examination in 1907. Of the 500 who took the 14-hour examination, only half passed and of those only 65 ultimately were permitted to advance. Of this final group of 65, only 5



¹² While he was enrolled at Cal, it appears that he may have been working too. The civil service list for US Customs in 1903 shows Henry H. Gutterson as employed on their rolls; a directory from 1905 also reflects him as working at a laborer for US Customs in Oakland. Further research is likely warranted to make sense of Gutterson's early life. Voter rolls from the time show his father lived at 2511 Virginia in Berkeley, which may be how he came to graduate from Berkeley High School. A 1904 directory supports this theory because it lists both Arthur L. and his son Henry as living in Berkeley.

¹³ "North Gate Hall (the Ark)," BAHA, available at https://berkeleyheritage.com/berkeley_landmarks/northgate_hall.html

¹⁴ "Student Honored at French School," *The San Francisco Call*, May 30, 1909. Note that reports about Gutterson's graduation year vary between 1905 and 1906, but the majority reflect 1906. A 1905 directory shows his mother and step-father/uncle as living on Virginia street, and his father as working in San Francisco with a residence in Alameda. Directories for 1914 onwards show his mother and step-father/uncle as living in the Los Angeles area. They are both buried there.

¹⁵ Burnham, Daniel, *Report on a Plan for San Francisco*, 1906, reprint by Urban Books, 197, page 211.

¹⁶ Stern, Susan Dinkelspiel, "Henry Higby Gutterson," monograph, BAHA.

¹⁷ *Oakland Tribune*, "Berkeley Society," Oct. 13, 1907; "Wins Honors Abroad," *The San Francisco Call*, Aug. 15, 1907.

were permitted to be foreigners. Gutterson was one, and ultimately studied there for two years.

While at the Ecole, Gutterson apparently did well. According to Gutterson scholar Susan Dinkelspiel Stern Cerny, Gutterson experienced financial difficulties while in Paris, and so had to return earlier than intended.¹⁸



He returned to the United States from Paris in 1909 and worked for a short time in the New York area.¹⁹ Notwithstanding reports in the paper that he was going to settle in Los Angeles, Gutterson returned to the Bay Area in 1909. After returning to Berkeley, Gutterson taught architectural design at U.C. Berkeley for at least a year.²⁰ According to the 1910 Census, he

was a boarder at 2500 Ridge Road. He lived for a time with his sister on Hillegass Ave.²¹

Gutterson married Helen Arnett in July 1911. They lived first on Prospect Avenue²², but moved to 2922 Garber Street in a house he designed in 1912.²³



(left: *San Francisco Examiner*, May 30, 1909; left: Gutterson Home at 2922 Garber, photo: R. Kehlmann, 2013)

¹⁸ Stern, Susan Dinkelspiel, "Henry Higby Gutterson," monograph, BAHA.

¹⁹ Stern, Susan Dinkelspiel, "Henry Higby Gutterson," monograph, BAHA; *San Francisco Examiner*, May 30, 1909.

²⁰ "Berkeley Society," *Oakland Tribune*, July 11, 1911. The Blue and Gold yearbook for 1912 lists him as an instructor.

²¹ In 1910, the US Census listed Gutterson as living in an apartment at 2518 Hillegass Street in Berkeley, with his sister, Geraldine (born c. 1890 in CA). (The California Voters Register listed his address in 1910 as 2116A Hillegass Street.)

²² 1911 Voter Registration List.

²³ <http://berkeleyplaques.org/e-plaque/henry-gutterson/>.

b. CAREER

A 1910 Directory shows Gutterson listed as a draftsman for J.J. Donovan in Berkeley. By the next year he apparently joined Howard's San Francisco architectural firm.²⁴ Four years later, Gutterson opened his own firm, although he continued to work closely with Howard with whom he worked on the 1915 Panama-Pacific International Exhibition. Gutterson initially maintained an office in San Francisco, but eventually moved that office to Berkeley. His was one of the only firms at that time to employ women architects.²⁵

The first homes Gutterson designed in Berkeley evidence his design flexibility: one is a brown shingle house on Berryman and the other a "stucco and wood chalet" on Tunnel road. Both date to 1914.

(photo right: Howard House at 2044 Berryman; photo EBRD; photo below CED)

Around that same time, he designed two of his more famous early houses, the Sophie McDuffie House and the Charles Mallory Dutton House (shown below).



Of these, Susan Dinkelspiel Cerny wrote, "Both were designed and constructed from 1914 to 1915 and have unusual site specific floor plans that treat the garden as an extension of the house."²⁶ Gutterson's site specific

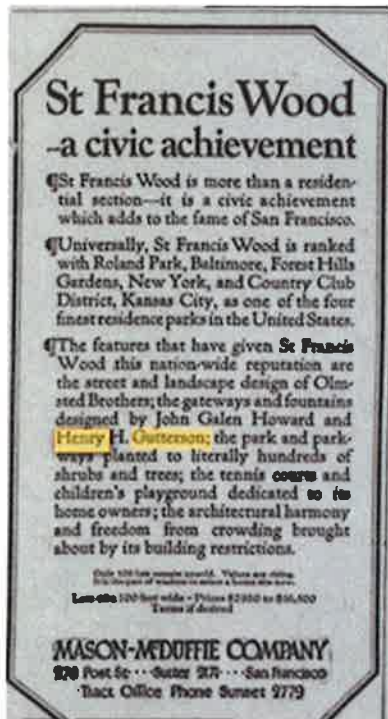
plans and integration of the garden into his houses became the hallmark of his residential design. During this period, he also designed the Eleanor Smith House and cottage (Berkeley Landmark #36) (House since demolished).

²⁴ <https://archives.ced.berkeley.edu/collections/gutterson-henry>

²⁵ Gertrude Elizabeth Comfort Morrow (Cal BS 1914; MS 1916) was one of those listed as working for him in 1916. See also, <http://berkeleyplaques.org/e-plaque/henry-gutterson/>;

²⁶ Cerny, Susan Dinkelspiel, "Henry Gutterson," *Towards a Simpler Way of Life*, University of California Press (1997) (Robert Winter, ed.) at 74.

Around 1912, his mentor Howard was commissioned by developers Mason-McDuffie to develop a parcel that came to be known as St. Francis Woods in San Francisco. The project was part of what is sometimes referred to as the "City Beautiful" movement, which was brought to San Francisco by Daniel Burnham after the 1906 earthquake.²⁷ (Of course, Gutterson had contributed drawings to this plan while in college). Four years after Howard was hired to work on St. Francis Woods, Gutterson joined Howard on the project (1916).



Because the development was intended to be park-like, Madison-McDuffie retained the Olmstead Bros. firm of landscape architects – owned by the sons of famed landscape architect Fredrick Law Olmstead -- to design the grounds. Notably, Howard and Fredrick Law Olmstead had collaborated previously on the Hearst Plan for the University of California (Berkeley). As with the much earlier plan for the campus, the plan for St. Francis Woods featured a picturesque layout with ample open space and garden features that made the most of – and paid attention to-- the area's natural topography. The property was designed along the lines of Forest Hills in New York: a lush green parkland with unique homes for the well-to do middle class. The homes had a minimum construction cost of \$6000 and had strict design criteria.²⁸ By

1925 (around the time 1450 was constructed), St. Francis Woods was home to over 500 families. When Howard stepped aside, Gutterson became supervising architect, a position he held until his death in 1954.

(left: photo Joe McCarville)

The photo above of one of Gutterson's designs in St. Francis Woods illustrates how Gutterson paid careful attention to the landscaping as well as the house design, integrating the two into a whole.



²⁷ Wilson, Mark, "Mason-McDuffie and the Creation of St Francis Wood," *The Argonaut*, San Francisco Historical Society, Fall 1997.

²⁸ *Id.*

According to Mary Brown, San Francisco's Preservation Planner, during World War I, Gutterson "enlisted in war camp service."²⁹ Gertrude Morrow, whom Gutterson had employed after her graduation from Cal's Architecture Department, took over Gutterson's St. Francis Wood work for the duration.

After the War, Gutterson was extremely busy and productive. As one Gutterson scholar explained:

He taught briefly at UC Berkeley from 1920 to 1921, was the supervising architect of St. Francis Wood, and took on independent commissions in San Francisco, Berkeley, and Oakland. Not only did he assist Maybeck in Berkeley on two important commissions – Rose Walk and the Sunday School addition (1927) to the First Church of Christ, Scientist (Maybeck, 1910) – he "found time to design a 5,559 square foot mansion in Carmel for Paul Flanders, called the "Outlands" in 1925 (which is on the National Register of Historic Places), and he supervised Flanders' subdivision in Carmel, called Hatton Field.³⁰

As noted, Gutterson continued to design residences in Berkeley in addition to his commissions at St. Francis Woods.



(2910 Garber St. Photo: Richard Grant; drawing: CED archives)

In around 1922 he returned to Cal as a lecturer,³¹ but it seems doubtful that he abandoned private practice given his plethora of projects.

²⁹ Brown, Mary, "San Francisco Modern Architecture and Landscape Design 1935-1970: Historic Context Statement," Final Draft, September 2010, at 240-41.

³⁰ Brandi, R. "Henry H. Gutterson, Supervising Architect of St. Francis Wood," 2007, available at <http://outsidelands.org/gutterson.php#1>;

³¹ A directory of that year shows his occupation as instructor at U of C.

Gutterson's mature designs in Berkeley from this time – which include the Sperry-McLaughlin House and Marsh House – display his conviction that the garden and landscape should be integrated into the home. As Susan Cerny noted, "Gutterson's homes today blend into the gardens that surround them. Often hidden amongst now mature trees and shrubs, they are the homes that one passes with the feeling that they are retreats from the otherwise hectic world."³²



Another Gutterson scholar, architectural historian Richard Brandi, describing Gutterson's integration of natural landscapes, wrote, Gutterson "treat[ed] the garden as an extension of the living room."³³ "Gutterson's penchant for incorporating the garden into his homes is seen in the provision for the living room to open to the garden through the three sets of doors."³⁴

The photo of the Sperry McLaughlin

House above illustrates how Gutterson quite literally opened the home to the outdoors. (photos courtesy of BAHA). Gutterson's integration of landscaping with his residential design was recognized in 1927 when the American Institute of Architects gave him an award, noting, "we wish to commend the garden treatment about these buildings, which was so successful in keeping with the architecture."³⁵

Given how important the landscape was to his designs, it is no wonder that Gutterson collaborated with the most talented landscape architects of the day, including Fredrick Law Olmstead and, later, Olmstead's sons, and Thomas Church.³⁶



³² Stern, Susan Dinkelspiel, "Henry Higby Gutterson," monograph, BAHA.

³³ Brandi, R. "Henry H. Gutterson, Supervising Architect of St. Francis Wood," 2007, available at <http://outsidelands.org/gutterson.php#1>; see also Cerny, Susan, "Gutterson," *Towards a Simpler Way of Life*, (Winter, Robert, ed.), University of California Press (1997) at 73- 78.

³⁴ *Id.*

³⁵ Architect and Engineer, June 1927, Honor Awards of Northern California Chapter AIA, page 39

³⁶ Brown, Mary, "San Francisco Modern Architecture and Landscape Design 1935-1970: Historic Context Statement," Final Draft, September 2010, at 35.

PLAN SPRING GARDEN SHOW



Henry H. Gutterson (left), architect on the Georgian residence, which will accentuate the Sixth Annual California Spring Garden Show, and Butler S. Sturtevant (center), noted landscaper, have combined their technical knowledge in aiding Mrs. Ivy Capitola (right), show secretary, to make the site one of the most decorative and architecturally attractive in its history.

The photo at left shows Gutterson (far left), landscape architect Butler Sturtevant and interior designer Ivy Capitola who spoke together at the Sixth Annual California Spring Garden Show. Gutterson frequently spoke at events with popular landscape architects at the time.

Some of Gutterson's most well-known Berkeley residences are the houses along nearby Rose Walk, across from the cottages designed by Bernard Maybeck. The residences, which are now landmarked, are in a Swiss Chalet style with strong heavy tiled roofs and prominent chimneys. As with his other designs, they sit in a designed landscape that is of a piece with the homes. (Photo: Danielle Thompson) They are Berkeley

Landmark # 165.

Although at the outset of his career, Gutterson was closely associated with John Galen Howard, as his career matured, he worked with other distinguished architects most notably Bernard Maybeck. He assisted Maybeck with the First Church of Christ Science in Berkeley (Berkeley Landmark #5) and took over from Maybeck the large project at Principia College in Illinois, which is landmarked (NR # 93001605).



Gutterson's solo church projects include the Second Christ Science Church on Spruce, which is still standing, and another Christian Science Church in Santa Barbara that has been landmarked. Gutterson was himself a Christian Scientist.

Gutterson designed Old Jefferson Elementary School on Rose Street (Berkeley Landmark # 117); the theatre at his alma mater Berkeley High, which has landmark status. (Berkeley Landmark #179). In Berkeley he also the Vedanta Society, Berkeley Civic Center Fountain and Park (Berkeley Landmark # 202), and Berkeley High School's Shop and Science Buildings (as well as its Community Theater). He designed a retirement home (Arden Wood) in San Francisco and several in Marin County.



(Above: Berkeley Community Theater, Berkeley Landmark #179; photo by Daniella Thompson; below, Arden Wood, SF: photos *Architect and Engineer* (1930))





Above: Photos of Flanders House, Carmel; source: Nat'l Registry of Historic Places)



The Flanders House, which is landmarked (NPS #89000228), bears a striking resemblance to the Sperry-McLaughlin house in form, although not building materials (as the Flanders House is not stucco). Like the Sperry-McLaughlin House, the Flanders House has a long central structure with a terracotta tile steeply peaked roof -- specifically, Gladding McBean & Company's "Berkeley" trough ceramic tiles fired in a russet color and laid irregularly -- featuring dormers at regular intervals. As does the Sperry-McLaughlin House, the Flanders House is sited very specifically to take maximum advantage of the natural contours of the site.

During this period of great professional success, Gutterson suffered a strange physical attack. In November 1925, Gutterson was almost killed when one of his clients – the owner of an apartment building that Gutterson was working on – came to his San Francisco offices and shot Gutterson and two employees.³⁷ Gutterson and the others survived but the gunman did not; he shot himself. At least one historian has commented that this violent experience rattled Gutterson to such an extent that he turned away from design towards more involvement in public service.³⁸

c. PUBLIC SERVICE

Gutterson was not only an active architect, he was also active locally and nationally in community and government programs. He served on the Berkeley Planning Commission (1934-36), the State Board of Architecture (1929-34) and was active in local and national architectural trade associations. He co-founded and was president of the Berkeley Planning and Housing Association, was a director of the State Association of California Architects, and was president of the local chapter of the AIA (American Institute of Architects).³⁹ In 1945, the AIA gave him an award for unification of the profession.⁴⁰

During World War II, he was the executive director of the USO's Western Operation⁴¹, and traveled widely to promote its agenda and locate facilities for the USO. In this capacity, Gutterson was also in charge of overseeing the location and construction of facilities for the Jewish Welfare League, apparently for refugee resettlement.⁴²

d. LEGACY

Since his death in 1954, the quiet brilliance of his design has been recognized repeatedly in books, articles, architectural tours, and landmark designations. Known projects that have received landmark or other recognition include the Flanders Mansion in Carmel, the Camp Fire Girls' Headquarters in San Francisco, and the Principia College in Illinois, all of which are listed on the National Register of Historic Places.

Gutterson by all accounts was not prone to self-promotion, and it is possibly for this reason that he is not better known. He wrote but not widely or prolifically. His designs, particularly his residential designs, tended to handsome and livable rather than flashy or groundbreaking. Nevertheless, his legacy has endured not the least

³⁷ "C.M. Moore Shot In Arm By Crazy Man," *San Francisco Call*, Nov. 28, 1925.

³⁸ Brandi, R. "Henry H. Gutterson, Supervising Architect of St. Francis Wood," 2007, available at <http://outsidelands.org/gutterson.php#1>;

³⁹ <https://www.aiaa.org/page/presidents>

⁴⁰ <https://archives.ced.berkeley.edu/collections/gutterson-henry>

⁴¹ "New USO Chief to Arrive Tomorrow," *Oakland Tribune*, June 24, 1944.

⁴² Numerous letters exist to Gutterson at the USO regarding his assistance for locating facilities for refugees.

of which because of how comfortable and handsome they are. When one lives in a Gutterson house, one grows to love the house deeply.

For fun, Gutterson loved to sail on the San Francisco Bay. Around the time he designed the Sperry-McLaughlin House, he had a boat named, "The Imp," that he sailed out of the St. Francis Yacht Club in San Francisco. Given his love of sailing the Bay, he surely would have been a great fan of Sylvia McLaughlin's efforts to save the Bay in the decades following his death in 1954.

Funeral Services Held For Henry H. Gutterson

Funeral services have been held for Henry H. Gutterson, 89, prominent architect whose projects included the Berkeley High School Community Theater, the Salem Lutheran Home for the Aged in Oakland and the North Beach Housing Project in San Francisco.

Mr. Gutterson died at his home at 1644 Monterey Blvd., San Francisco, after a long illness. Prior to moving to San Francisco he had lived in Berkeley for 40 years.

He formerly served on the faculty of the University of California School of Architecture, as president and a member of the State Board of Architectural Examiners and as a member of the Berkeley City Planning Commission.

The architect was educated at Berkeley High School, the University of California and L'ecole de Beaux Arts in Paris.

In 1905 and 1906 Mr. Gutterson was a member of the staff of architect Daniel Burnham, who drew up plans for the development of San Francisco. Later, as a member of the Willis Polk architectural firm, he engaged in an unsuccessful effort to have San Francisco adopt the Burnham plan.

He was a member of the staff which in 1913 and 1914 designed the Panama Pacific Exposition in San Francisco.

Mr. Gutterson was a fellow of the American Institute of Architects and had served as chairman of the institute's Northern California division.

He is survived by a sister, Mrs. Geraldine Vielle, with whom he made his home.

Services were held yesterday at the Ashley and McMullen Mortuary, San Francisco.

Mary Kathleen Taylor of Pacific Palisades; three grandchildren, and a brother, Earl W. Haskins.

Services will be at 2 p.m. tomorrow in the Chapel of Albert Brown Mortuary, 3476 Piedmont Ave.

Lewis Reece

ALBANY, Aug. 24.—Last rites will be held at 2 p.m. tomorrow for Lewis Reece, 73, Albany resident since 1948, who died Saturday.

A street crossing guard for many years on Solano Ave., Mr. Reece lived at 941 Jackson St.

A former power plant engineer at Harvard University, Mr. Reece quit his job and moved to Albany in 1948 and worked on the development of a device for collecting energy from the movement of ocean waves.

Surviving are his wife, Dorothy L. Reece and two children, Robert Reece of Massachusetts and Mrs. Betty R. Martinelli of Livermore.

Services will be held at the Ellis-Olson Mortuary, 727 San Pablo Ave.

Year in Jail on Forgery Charge

Edward Cornell Burns, 23, alias Edward Raymond Prince, who claims to be a middleweight boxer, today was sentenced to a year in the county jail for forgery.

Burns told Sup. Judge Donald K. Quayle that he wanted to go to San Quentin because he thought he could serve his time and then go back into training as a high < 28 of 36 edge though the county jail a better place.

3. MABEL SYMMES (PIONEERING FEMALE LANDSCAPE ARCHITECT)

a. BACKGROUND AND EDUCATION

Mabel Symmes was born August 1, 1876, to Frank and Anne Symmes. Frank Symmes was a prominent businessman in San Francisco, which is where Mabel and her brothers and sisters grew up. Mabel was a good student and made the honor roll throughout her early years. After high school she enrolled at U.C. Berkeley, from which she graduated in 1896 (with classmate Julia Morgan).



(Left: Mabel Symmes – 1921 Passport photo taken 2 years before she designed the 1440-1450 Marsh-Sperry Garden)

Not much is known about Symmes's college years other than that she was a member of Kappa Alpha Theta,⁴³ but her post-college life is better documented and shows that it was initially filled – as was typical for young ladies of the period – with parties, trips, and other social activities. She associated with the Wheeler and Hearst family during this time. The only recorded work history from this period is a note that she taught Sunday School at a church in San Francisco. Her travels took her to Hawaii, Europe, and Tahiti.

Although her older sister married well – to business owner Alston Blake – Symmes never married. Independently wealthy and financially astute⁴⁴, Symmes chose to re-enroll at Cal in 1914 to study landscape architecture right after the school established that department.⁴⁵ That department was established thanks to the generosity of Phoebe Apperson Hearst, who helped establish the Architecture Department some 10 years earlier.

⁴³ *California Historical Society* Blake [insert cite]

⁴⁴ Mai Arbegast, "Mrs. Blake and the Garden in the 1950s," an oral history conducted in 1986 by Suzanne Riess, in *Blake Estate Oral History Project*, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1988, at 280.

⁴⁵ Mai Arbegast, "Mrs. Blake and the Garden in the 1950s," an oral history conducted in 1986 by Suzanne Riess, in *Blake Estate Oral History Project*, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1988, at 273.

The Landscape Architecture Department was initially known as “Landscape Gardening and Floriculture,” and was part of the College of Agriculture when it was first approved by the Regents on January 1, 1913.⁴⁶ The head of the college, Thomas F. Hunt, selected John W. Gregg to lead that department.⁴⁷ When Gregg began teaching at Cal, the field was a comparatively new one: ASLA was founded in 1899 and Harvard was the first University to graduate students with degrees in 1901. At the time, there were very few landscape architects based in the Bay Area.



After he joined the University, Gregg brought over pioneering California horticulturalist Katherine Davies Jones (1860-1943), who was already teaching courses at Cal on the selection of plants suitable for California’s soil and climate. Jones (photo above: CED archives) eventually became the Department’s resident botanist. Mabel Symmes had been a classmate of Professor Jones – both graduated from Cal in 1896⁴⁸ -- and joined in 1914 as a “non degree student” of the department. Symmes was close to Jones⁴⁹, and when Jones died at 86, she bequeathed her records to the University and specified that Mabel Symmes complete the book she was writing on landscape design.⁵⁰ After her death, Symmes wrote a monograph about Jones.⁵¹

⁴⁶ Laurie, Michael, *75 Years of Landscape Architecture at Berkeley: An Informal History Part I: The First 50 Years*, 1988, at 4.

⁴⁷ *Id.*

⁴⁸ Arbegast, *supra*, at 275.

⁴⁹ Arbegast, *supra*, at 275.

⁵⁰ “UC. Botanist Wills Writings,” *Oakland Tribune*, March 5, 1943.

⁵¹ Symmes, Mabel, “Katherine Davies Jones,” *Madrono*, April 1946.

Given the small size of the classes at that time, Symmes must have known Willa Clair Cloys Carmack who graduated in 1915 (getting her diploma in 1916) and went on to become a very well-known Bay Area Landscape Architect (see article below). She also knew Harry Shephard (undated photo at right: CED archives), who was a classmate and eventual professor in the



department. It is not known for how many years, Symmes studied under Gregg and Jones, or when she began taking private commissions.



b. CAREER

Mabel Symmes was commissioned to design residential gardens throughout the East Bay.⁵² The Marsh-Symmes garden is likely one of her earliest commissions. By far her most famous project was the landscape design for Blake House.

In 1921, Symmes lived on Piedmont Avenue in Berkeley, likely with or near her sister Anita and brother-in-law Anston Blake. The Blakes were displaced by the University in 1922 when the University acquired land through eminent domain to construct the football stadium.⁵³ Rather than purchase new property, the Blakes decided to build homes on land that they had previously acquired in a remote area now known as Kensington. That land was divided between Anston Blake and his siblings. Anston decided to build houses for himself and another for his mother and other relatives on two of the parcels. His house became what is known as Blake House and was eventually bequeathed to the University where, as noted above, she lived with Anston Blake and her sister Anita, who was an avid botanist.

⁵² Linda Haymaker, "The Historical Validity of Blake Garden," an oral history conducted in 1986 by Suzanne Riess, in *Blake Estate Oral History Project*, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1988, at 365; see also Mai Arbegast, "Mrs. Blake and the Garden in the 1950s," an oral history conducted in 1986 by Suzanne Riess, in *Blake Estate Oral History Project*, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1988.

⁵³ Riess, Suzanne, "Interview History," *Blake Estate Oral History Project*, "University History" Series, Bancroft Oral History Library, 1988.

Symmes designed the key features of Blake Garden, including the reflecting pools, water features and formal rose gardens.⁵⁴ Her friend Katherine Jones assisted with tree selection. Among other things, Jones provided Mabel Symmes with seeds for Chilean Soap-bark trees (*Quillaja Saponaria*) – trees that Symmes also planted in the Marsh-Sperry Garden and that remain there to this day.⁵⁵ Mrs. Blake loved to collect and propagate plants, some of which were planted in the garden. Mable Symmes by contrast was more taken with the overall concept of landscape design than creating a hodgepodge of plant varieties. Of course, both Blake House and the Hawthorne Terrace homes featured non-native varieties, but they did so as an integrated whole rather than as individual specimen plants.

Symmes' design for Blake Garden exemplified what commentators at the time were espousing, namely formal gardens interwoven with tamed but still rugged natural landscapes that molded to the existing natural hill structure.



According to Linda Haymaker who worked in Blake Garden for years and has written and spoken about it, Symmes promoted the unique topography of the site, rather than change it.⁵⁶ “She also did things – this is sort of the flip-flop of her design ability: she was able to create this formalistic effect

exceedingly well, but then you watch what she did down in the canyon area, and you see how she has this whole naturalistic system down through there.”⁵⁷

(Photos of Blake House Rose gardens c. 1958, CEB archives and Blake House Blog)

⁵⁴ Mai Arbegast, “Mrs. Blake and the Garden in the 1950s,” an oral history conducted in 1986 by Suzanne Riess, in *Blake Estate Oral History Project*, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1988, at 276.

⁵⁵ Symmes, Mabel, “Adelante,” *The Journal of the California Historical Society*, at 216.

⁵⁶ Haymaker, at 369.

⁵⁷ *Id.*



If you could say there's two sections of the garden that you really must preserve in their intended way, it would be the formal garden and the redwood canyons.

– Linda Haymaker, “The Historical Validity of Blake Garden”



You can see the structure of the garden as laid out by Miss Symmes. It hasn't been changed, but you can see the various axes that Miss Symmes laid out that are all linked: from the front of the house looking east towards the grotto, or the reflecting pool; looking straight north there's a kind of a circle; and then there's a reservoir and a series of circles with dancing figures etc. On a plan it has a very Italiante look. . . . All the redwoods were cuttings taken from the redwood trees which were where the University stadium is now.

■ Mai Arbegast (1986)

Symmes also designed the gardens for the Charles Merrill House in Orinda (NRI No. 05000251).⁵⁸ The gardens there show the same integration of formal areas containing flowering shrubs, lawns and water features, with more natural wooded areas with winding paths and natural Berkeley Rhyolite rock walls.

(Photos: National Landmark Preservation files for Charles Merrill House and Gardens)



The landmarks preservation form prepared by Dr. Robert R. Weyeneth, Department of History, University of South Carolina, states:

“Ratliff worked closely with **landscape architect Mabel Symmes** to fashion a setting that joined the residence with its rustic hillside setting. In this way, house and grounds were designed from the beginning to complement one another. Attention turned to designing the grounds even as the site was prepared, the system of stonework terraces erected, and the house itself constructed.”

This sensitivity to site is evident in the Marsh-Sperry Garden, as is her use of local materials. Several Bay Area landscape architects and architects used these local materials in their designs. Mabel Symmes certainly did so at Blake House, the Charles Merrill House, and the Hawthorne Terrace gardens.

⁵⁸ Charles Merrill house is listed on the National Registry of Historic Places. <https://npgallery.nps.gov/AssetDetail/NRIS/05000251>.

The photo below shows the rock wall on the Southern Exposure of the 1450 property along Vine Lane (with original wood saloon door).



In the twenties I believe there was a strong new phase in garden development – I think it was probably allied with this arts and crafts style that was happening in California then, during the twenties – a returning to the native material and locally crafted arts, exploring the natural beauty that hopefully would be existing in the area.

Linda Haymaker, Blake Garden Oral History, 1987

Although Symmes was part of the region's burgeoning landscape design esthetic, it is important to remember how pioneering she was. She was absolutely at the forefront of professional working women at a time when females born to well-to-do families were not expected (indeed were often actively discouraged) from engaging in a profession. According to Mai Arbegast (1922-2012), a professor and landscape architect in Berkeley who knew Symmes in her later years, Symmes and her contemporaries were underappreciated: "[T]here were quite a number of other women practicing in the area at the time [1920s] . . . Women don't practice in a way that they are noticed, you know, they're working quietly behind the scenes."⁵⁹ Linda Haymaker, who worked at and wrote about Blake Garden, observed:

I think she was a really bright woman. I think she probably worked a lot by herself. . . . I don't think she promoted herself at all. I think she had enough means through the family and through colleagues to get work to do certain thing as a designer within the region and to stay busy in this field of work. I think a lot of it – her low profile – was probably because she was a woman, but I think part of it also was that she . . . chose to go about a quiet way of designing.⁶⁰

⁵⁹ *Id.*

⁶⁰ Linda Haymaker, "The Historical Validity of Blake Garden," an oral history conducted in 1986 by Suzanne Riess, in *Blake Estate Oral History Project*, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1988, at 365.

By the 1930s, Symmes's design for Blake Garden was becoming well-known and tours were organized by local groups to visit it.⁶¹ Blake Garden was divided before the property was deeded to the University. One parcel was sold to the Catholic Church, which used it to as a Carmelite monastery. The nuns who lived there so enjoyed

the gardens that were on that property, they sought and obtained papal recognition for Mabel Symmes and her sister Anita. By the time that she died in 1962, however, landscape design (and the feminist movement) had changed dramatically and her passing unfortunately received no media attention.

RARE PLANTS AND TREES IN BERKELEY GARDENS

(By Mabel Symmes)

A man is known by the garden he keeps.

(Like most general statements this needs modification, which each reader is at liberty to make for himself.)

Neat or untidy, starchy or luxurious and graceful, intelligently thrifty or survival of the fittest, carefully planted or hit-or-miss, a plot of unkempt grass and baked soil cleaned up once a year or a mass of bloom and cherished treasures.—each front garden is a book that he who walks, or motes, may read. And the sum of all the front gardens, plus the olive planting, which, although indirect, is an expression of the inhabitants, means the individuality of the town.

Strangers sometimes say that Berkeley gardens have an interesting variety of plants, in contrast with the monotony of towns where each man has seemed to copy his neighbor. Perhaps it is that we have a more varied flora from which to choose. But in the present national garden awakening, Berkeley needs to do much more if she is not to lag behind.

The magnificent concentrated phar-

the exquisite beauty of the single Weeping Cherry with its groundcover of Fairy Primrose on Ashby and Piedmont Avenues, northeast corner, and the Japanese Pieris on the 1300 block, west side of Shattuck Avenue; the lovely double flowering Cherry on Alvarado Road opposite Willow Park, and the many lovely spring things in the garden beyond the path?

Who does not thrill to the beauty of the deciduous Magnolia, no longer possible of importation, more grown in the East than here. The earliest bloom is the Gray Magnolia, *M. stellata*, of which there is a fine plant on the north side of Parker Street, east of College Avenue, and beside it, of more upright growth, is a *Magnolia concolor* with its large white flushed pink cup-like blossoms. Being a hybrid, *Magnolia soulangeana* varies greatly in its coloring, and the splendid big bush between two houses on the west side of Hillegate, just south of Stuart Street, is quite different, with more purple in its pink, and well repays a visit, when in flower. The common name of Saucer Magnolia does not do justice to the great beauty of the flowers. There is a deep wine-purple form

(article right, Berkeley Gazette, June 30, 1931)

Unfortunately for us, few of Symmes's gardens have survived. According to Arbogast, one close to campus was destroyed to make way for an apartment building.⁶² There are additional references to work by Symmes in the Claremont area; however, none are known to have survived intact.⁶³ Of the three preserved Symmes gardens – Blake Garden, Charles Merrill House Garden, and the Marsh-Symmes Garden at 1450 & 1440 Hawthorne Terrace – the first is preserved by the University, the section is a landmark, and the third is presently unprotected.



⁶¹ See, e.g., "Eastbay Rose Club Formed," *Oakland Tribune*, Oct. 16, 1932; "Arlington Club Plans Tour," *Oakland Tribune*, May 20, 1945.

⁶² Mai Arbogast, "Mrs. Blake and the Garden in the 1950s," an oral history conducted in 1986 by Suzanne Riess, in *Blake Estate Oral History Project*, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1988, at 281.

⁶³ Interestingly, the University also initially did not fully appreciate Blake Garden when the property was promised to the University; at least until Dr. Gardener – a long time resident of the Gutterson house directly across from 1450 Hawthorne Terrace – came on the scene. *Id.* at 288.

4. AXEL CEDERBORG (BUILDER)

During the 1920s when Sperry engaged him to build the twin houses on Hawthorne Terrace, Axel Cederborg (also known as Alex) ran a booming business as a builder out of his Oakland home at 1455 Excelsior Avenue. He specialized in large residences in Berkeley⁶⁴ and Piedmont as well as some commercial projects. During an earlier period, his company was called Cederborg & Anderson.⁶⁵ It is not clear when that business name changed.

M. CAVALIER RESIDENCY A. Cederborg, Builder Albert Farr, Architect

EARNST L. DYER RESIDENCE A. Cederborg, Builder Newton Dyer, Architect

35 GLEN ALPINE ROAD A. Cederborg, Builder Albert Farr, Architect

A. CEDARBORG
Builder of Distinctive Homes
 Consult Your Architect

1455 EXCELSIOR AVENUE FRUITVALE 3145-W

Oakland Tribune APRIL 7, 1929

UNIQUE HOME BY CEDERBORG IN BERKELEY

Recently completed by A. Cederborg, at 1551 La Verda avenue, Berkeley, according to the distinguished Cayus O'Brien. The residence has a Swedish and Finnish, styled by the Aladdin House Corporation.

A description of unusual interest to the rapid rebuilding of the burned area in Berkeley is a home recently completed by A. Cederborg, 1551 La Verda avenue, Berkeley, styled by the distinguished Cayus O'Brien. The residence has a Swedish and Finnish, styled by the Aladdin House Corporation.

Designed by Cayus O'Brien, Berkeley architect, the structure embodies a number of unique ideas in home design and is notable for its construction. The house is built on a hillside overlooking the Bay area, and is characterized by its use of heavy, unadorned stone. It is of attractive but unpretentious design both inside and out.

Among the features which are pointed out by O'Brien as being desirable in improved homebuilding are a number of convenient appliances for providing all home comforts. In the kitchen, for example, automatic washers and built-in double windows. These conveniences are in line with the latest scientific knowledge, but are not without a certain amount of ruggedness, with the large windows giving unusual light. Moreover the kitchen and the connecting hallway is another interesting feature, a sliding door which is designed to conserve heat and being conveniently set of the way when open.

Space reserved for bath and shower and a number of cupboards is reserved in the wall between the kitchen and dining room which is considered one of the two most interesting and sufficiently far apart to provide a large amount of cupboard space. Another kitchen feature is the elimination of fire. In place of the usual permanent receptacle for coal and sugar large metal-lined drawers have been substituted. Still a third down-to-earth convenience is a sliding door designed to accommodate the leaves of the shutters, one common household problem.

In the second floor, where four bedrooms, bathroom and lavatory provide for comfort, a feature of unusual interest is the ventilation of air. For this purpose sliding vents are provided opening to the roof space which, in turn, is vented to the outside. This method is said to provide fresh air in the rooms at all times, without danger of draught of cold.

In the basement is a completely equipped chemical laboratory. The adjacent room adjoins a large furnace room in which is a furnace and furnace installed by the Aladdin Heating Corporation, 1117 Broadway. The furnace, according to O'Brien, was selected for its unusual heating efficiency and unexcelled economy.

Other interesting features of the home include a large living room, 14 by 14 feet, in which is a built-in wood-paneled fireplace, the floor is of oak, and the walls are of a light-colored material. In the hall where a mirror reflects the appearance of the house.

Radio Prize Awarded

Mrs. Owen Jones of San Francisco and P. H. Lyon, president and general manager of Chandler and Lyon Inc. Mrs. Jones was winner in the Fourth Automatic Radio contest.

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His ads ran in the *Oakland Tribune* (right) and *San Francisco Examiner*.

Cederborg, born in Sweden in 1885, was one of many prosperous Swedes who made the Bay Area home⁶⁶ around the turn of the 20th Century, such as Erik Oolf Lindbloom, the Oakland tailor who struck gold and built a

⁶⁴ These include 924 Arlington,

⁶⁵ Building and Engineering News, Volume 16, Issue 1, p. 29.

⁶⁶ <http://www.nordstjernan.com/news/people/7768/>

mansion at Hillegass and Parker in Berkeley and built and owned the Claremont Hotel,⁶⁷ and others who hired Julia Morgan to design their church in Oakland.

Like Lindbloom, Cederborg was a key figure in many turn-of-the century buildings in Berkeley, including the Madison McDuffie Building, described above, and a multitude of homes in the Claremont and North Berkeley areas.

Cederborg specialized in utilizing the highest quality materials and finishes and even employed new "fire proof" building materials and techniques in his buildings. Therefore, it is hardly surprising that Sperry hired him to build his homes in 1924 after the Berkeley fire. Cederborg died in 1935.

Oakland Citizen APRIL 25, 1929

NEW MASON McDUFFIE CO. BUILDING

In New Home

This structure, built by A. Cederborg at Shattuck avenue and Addison street in Berkeley, will be occupied on May 1 by the Mason McDuffie company. Below, Duncan McDuffie, right, president, and Percy T. Thompson, vice-president. The building carries some fine examples of architectural work from the mill of Lawson Beardsley.



Announcement is made of the completion, at Shattuck avenue and Addison street in Berkeley, of the building to be occupied on May 1 by the Mason McDuffie company and the Berkeley Business Building and Loan association.

A description reads: "The new structure is a six-story, concrete and limestone reinforced concrete building of early Italian Renaissance architecture, with a touch of the late Renaissance suggested in the pediment and pilaster capitals.

"The four engaged columns support an entablature which crowns the building in detail the type of building considered within the structure. One feature the architect favored in the larger effects of the ornamentation, particularly with relation to individual and ornamental decoration. Another feature is the interest in the handling of other details of the structure, such as pediment, windows, etc. Another feature is the building up of the ornamental through architectural development and building, the last indicates the finished side of the work in the building, and is resulting in the housing and financing of various types of investments.

"The capital of the structure on Addison street indicates the lineage of the state of California, in the use of the pediment and gable.

"The building is usually detailed to follow the early Italian type of design, rather than the Renaissance. This is particularly emphasized in the details of the main cornice.

"The severity of the interior concrete wall treatment is relieved by color and glass, introduced to carry out the effect of low-relief design. The architectural work is particularly worthy of note, being a fine example of setting glass and iron, wall panels and window work from the mill of Lawson Beardsley Manufacturing company. The ceiling decoration is a novel design in color, after the early Italian manner, the predominant color of blue being characteristic of the period.

"The rear building, connected to the main structure by the small court or patio, is similar in architectural type to the main building, with the exception of the roof and plaster treatment, rather than the final treatment of the large building.

SOUND MOVIES AND EUROPEAN MARKETS

The rapid development of the cinematograph, and taking film by American producers has had brought about competition in the European market, according to Trade Commissioner George H. Carter, in a survey which has just been issued by the Commerce Department. Because of the large expense involved in installing the necessary apparatus, it is a fact that, until about 1910, the manufacture of these sound picture European countries will remain. The most complete estimates indicate that only the largest of the European picture houses will be able to compete with the success of American exhibitors, and it is pointed out that the most important American companies will decentralize their activities during the present season in taking films for the most part those taking films can be shown in Europe only as silent picture shows in Great Britain, where some theaters are now wired and where the language difficulty will not be present, it is noted that it can be predicted that without delay the talking picture will appear abroad, a situation which will probably come in favor of European silent films. However, there is little possibility of American picture being their present dominant position from the quality standpoint at least.

Plastering for the Mason McDuffie

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Cederborg, Building Contractor, Dies

Asel G. Cederborg, 53, building contractor, died at his residence at 1455 Excelsior Boulevard last night following a lingering illness.

Cederborg, a native of Sweden, was prominent in Swedish church activities in Oakland, holding the secretaryship of the Swedish Mission Church for 20 years. He is survived by his wife, Hilma; two sons, Chester G. and Edward; and two daughters, Esther and Marilyn. Services will be held at 3 p. m. Saturday and will be conducted at the Truman mortuary. Interment will be at Mountain View cemetery.

⁶⁷ Muriel Nelson Beroza, "The Lucky Swede," Nordstjernen.

SIGNIFICANCE OF PROPERTY

1. JAMES C. SPERRY: "MAN WHO SAVED THE REDWOODS"⁶⁸

a. FAMILY

James Cameron Sperry (b.1874) was the son of James L. Sperry, a successful businessman in Northern California, and his wife Mehitable, a poet. James L. Sperry's brother Willard ran the family business, Sperry Flour Mills, in Northern California.⁶⁹ James L. was a large land owner and hotel operator in Calaveras County. His acquisition of property there roughly coincided with the start of the Gold Rush, and as his hotels were on a popular trail from Nevada, his business prospered. By the 1850's, James L. Sperry owned and operated the Sperry and Perry Hotel (a/k/a Murphy's Hotel) with a partner (Perry) in Murphys, California.



Eventually he also acquired the Mammoth Grove Hotel (a/k/a Mammoth Trees Hotel). Many notable figures stayed at the hotels including Mark Twain (Samuel Clemens), John J. Astor, John Muir, John Bidwell, Charles Bolles (a/k/a Black Bart), Henry Ward Beecher, Horatio Alger, JP Morgan, and Thomas Lipton. Murphys Hotel is landmarked: NPS-1971000134; NRI 71000134; and CA Historic Property No. 267; Murphys community is CA Hist. Ppty. No. 275.



(Above left: James L. and Mehitable Sperry; above, Murphys Hotel; below left Mammoth Hotel. Photos courtesy of the Calaveras Historic Society)

⁶⁸ Headline of his obituary. See page 75.

⁶⁹ Obituary, Sacramento Daily Union, vol. 92, No. 39, Sept. 29, 1896.

The big trees—giant sequoias (*Sequoia Dendron giganteum*) – which were discovered a few years before James L. came to the area, became an international sensation drawing tourists from far and wide to Sperry's hotels.⁷⁰ James L. Sperry purchased land around his hotels containing undisturbed groves of sequoias called the Calaveras Big Tree Grove, for \$500.⁷¹ The famous Pioneer Cabin Tree (a/k/a the Tunnel Tree), which was located in that park until it fell in 2017, was cut through at James L. Sperry's request so that tourists could pass through it.



The Pioneer's Cabin and Pluto's Chimney – Big Tree Grove, Calaveras County (Albumen Photograph). Library of Congress. 1866. Retrieved January 9, 2017.

James L. Sperry worked hard to preserve them. John Muir recognized James L. Sperry's efforts to protect his unique trees: "[T]he Calaveras Grove for forty years has been faithfully protected by Mr. Sperry . . . and still is in primeval beauty."⁷²

After his partner Perry died in James L. Sperry gained another partner, French aristocrats, when Perry's widow sold them her shares in the hotel.⁷³ Sperry and his new partners had a falling out, and litigation ensued all the way to the United States Supreme Court. Sperry was eventually ordered to sell the Big Tree Grove property. However, his brother (the owner of the flour company) stepped in to buy the grove

⁷⁰ <http://www.calaverashistory.org/article/big-tree-cottage-area>; <http://www.calaverashistory.org/post/murphys-big-trees-road>

⁷¹ Kramer, Carol, California Big Trees, California Big Trees Historic Association publication.

⁷² Muir, John. Undated writings published in Sierra Club Bulletin, vol. XI, No. 1-January 1920.

⁷³ Kramer, Carol, California Big Trees, California Big Trees Historic Association publication.

and restore it to the family.⁷⁴ The Big Trees State Park, founded in 1931, is located there now.⁷⁵ The Murphy's Hotel is, as indicated above, a landmark.

James C. Sperry grew up in Murphys, California, and spent the summers with his family at the Mammoth Hotel, which they managed between 1871 and 1892.⁷⁶ He quite literally grew up amongst the big trees. His father sold the Murphys Hotel to Perry's widow, but the Mammoth Hotel (shown below) remained in the family and was eventually (by 1900) operated by James Cameron's sister Marion (who also acted as postmistress). Marion Sperry hosted John Muir when he came to visit the sequoias in 1900.

Photo courtesy of Calaveras historical society.



In the 1890's James L. Sperry, who could no longer pay for the grove's maintenance, tried to interest the government in acquiring the Big Tree Grove at a steep discount in the hopes of preserving them as parkland for future generations.⁷⁷ He did not realize his dream because the U.S. Congress approved the purchase but failed to fund it, so it fell to his son James Cameron Sperry to fight for their preservation in the 1920s. In the meantime, on February 25, 1900, the *San Francisco Chronicle* published an article under the headline, "The Calaveras Big Trees: Cry of Alarm from California that the Entire Grove May Be Sold and Cut Down for Lumber," which was picked up by the national press. Despite much lamentation, no one stepped up to fund its donation to the park service, and ownership passed in the early 1900s to Robert Whiteside, who promised Sperry not to cut down any trees. James L. and Mehitable retired to Berkeley.

⁷⁴ *Id.*

⁷⁵ http://www.parks.ca.gov/?page_id=551

⁷⁶ Kramer, Carol, California Big Trees, California Big Trees Historic Association publication.

⁷⁷ Kramer, Carol, California Big Trees, California Big Trees Historic Association publication.

Around the time his father was trying to sell his land to the federal government, James C. Sperry left the area to attend U.C. Berkeley, where he focused his studies in the sciences. He participated in the then-well-known archeological expeditions lead by Berkeley Professors to gather fossils in the Pacific Northwest.⁷⁸ In 1902, when his father died, James Cameron was described as a “recent” graduate of the University.⁷⁹

b. CAREER

Little is known about how James C. Sperry spent his first few post-graduate years employment wise, but he seems to have remained in Berkeley. His obituary reported that he was a retired mining engineer. By the 1920s he had secured a position as an executive with Magnavox.



Magnavox was one of the first California Tech Start Ups.⁸⁰ At a facility in Napa, around 1911, the founders of the company discovered a way to magnify sound dramatically via a speaker system. The product came to be known as the “moving coil” horn loudspeakers because of its shape. (Photos, Oakland Wiki).



The Magnavox Co.

The use of the product made by this company makes possible telephonic communication on airplanes and in all other places. It magnifies all sounds electrically and makes a photographical record sound as loud as original sound.

The Magnavox Company facility, Oakland, California (1920)¹

When Sperry was an officer in the 1920s, the Magnavox manufacturing plant was located at 2725 E. 14th Street in Oakland. It manufactured the loudspeakers, European style telephones, and other small electronics.⁸¹ In 1923, Magnavox engineers developed the

⁷⁸ “Students Leave on Exploration Trip to Oregon,” *San Francisco Call*, May 10, 1900.

⁷⁹ “Death Calls James L. Sperry, Once Owner of Big Tree Grove,” *San Francisco Call*, vol. 87, No. 66, Feb. 4, 1902.

⁸⁰ https://www.radiomuseum.org/dsp_hersteller_detail.cfm?company_id=2789.

⁸¹ http://www.antiqueradio.com/Sep07_Eckland_Magnavox.html.

world's first personal sized radio, described as follows by the Magnavox Historical Association:

In 1923, Magnavox invented the world's first single-dial radio. The radio, TRF-5, is shown with the R3 speaker. The set used 2 RF and 2 Audio amplifier (type A) tubes, plus 1 detector tube (type D), A&B batteries and covered the AM broadcast band.



(photo courtesy of the Magnavox Historical Society). Sperry's executive role increased over time. He was vice-president in 1922⁸², treasurer in 1923⁸³, and later became president. On November 22, 1928, the *Oakland Tribune* reported that J.C. Sperry had resigned as president and was "retiring to private life."⁸⁴ The next day the news was also reported in the *Los Angeles Times*.⁸⁵ Magnavox eventually relocated to the Midwest.

c. LIFE ON HAWTHORNE TERRACE

It is not known where Sperry and his wife Adelia were living in Berkeley before the 1923 fire, but after the fire, it appears they live on Hearst. In 1924, he applied for a permit to build the Hawthorne Terrace structure that had, as noted above, "the distinction of building the most expensive structure in the area."⁸⁶ Our best guess is that the Sperrys moved to Hawthorne Terrace in around 1925-1926.⁸⁷ James Sperry and his wife Adelia raised their children, James O., Bruce, Cynthia (m. Harris) in the home. Muriel was socially active; James attended Berkeley High from which he graduated in 1937. Cynthia was married in the garden of the 1450 Home.⁸⁸

⁸² "Magnavox Co. Is Prosperous During 1922," *San Francisco Chronicle*, Feb. 26, 1923.

⁸³ *Magnavox Co. v. Jones*, 105 Cal. App. 98, 100 (Cal. Ct. App. 1930).

⁸⁴ "Magnavox Earnings Set New Record," *Oakland Tribune*, Nov. 22, 1928.

⁸⁵ "Sperry Resigns as Magnavox Leader," *Los Angeles Times*, Nov. 23, 1928.

⁸⁶ "Tombstones of Berkeley's Fire Crash Before the Advance of Progress," *Oakland Tribune*, Sep. 17, 1924.

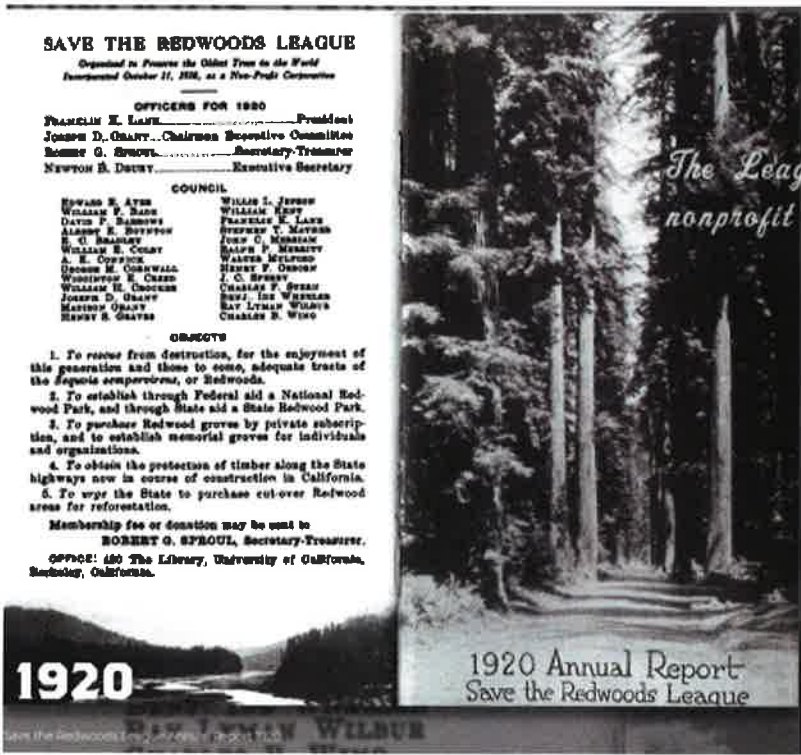
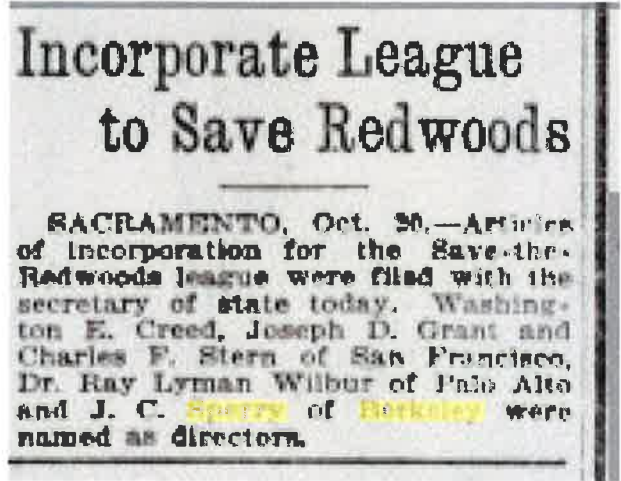
⁸⁷ Interestingly, his wife and sister were in a car that collided with a street car on April 25, 1925. At that time their addresses were reported as 2425 Hearst and Cleyne Court respectively, so presumably they moved to Hawthorne Terrace sometime after April 1925. Both ladies were hospitalized (one at Alta Bates Sanitarium; the other at the University Hospital). "Two Women Hurt as Auto, Street Car Hit," *Oakland Tribune*, April 25, 1925.

⁸⁸ "Muriel Glass to be Married at Sperry Home," *Oakland Tribune*, Jul. 11, 1932; "Helen Judd Betrothal Announced," *Oakland Tribune*, July 17, 1932.

d. SPERRY'S LIFE'S WORK: SAVING THE BIG TREES

Although his father had sold the family's interests in Big Tree Grove, James C. Sperry remained deeply committed to the preservation of Northern California's unique big trees and work tirelessly to ensure their preservation.

He was one of a group of early California environmentalists who incorporated the Save the Redwoods League in 1920.⁸⁹ (Right: *Announcement of Incorporation of Save the Redwood League. Los Angeles Herald, Vol. XLV, No. 303, Oct. 20, 1920.*) The League had been formed three years earlier by John C. Merriman, Madison Grant, and Fairfield Osborn.⁹⁰ J. C. Sperry was the League's first manager. During its formative early years, J.C. Sperry served as a director as well and negotiated actively to acquire key groves. The first memorial grove was established in 1921



In 1924, the League decided to focus its efforts on preserving four areas: Bull Creek and the Dyerville Flats, Prairie Creek and the Humboldt Lagoons, Del Norte Coast, and the Mill Creek/Smith River redwoods. John D. Rockefeller pledged \$1 million for the Bull Creek Area and contributed an additional \$1 million to the League. Two years later, James C. Sperry was selected to be a part of the team negotiating with the owners of Bull Run on behalf of the League. Those negotiations lasted 6 years!

⁹⁰ See www.savetheredwoods.org/about-us/mission-history/

Redwoods Perpetuate Memory of Noted Californian

The photograph shows those who participated in the ceremony dedicating the great Sequoia grove at Kentonville, Humboldt county, to the memory of Franklin K. Lane, celebrated California and former secretary of the interior. Left, right, R. S. WADE, J. C. MERRIAM, NEWTON B. DRURY, WILLIAM R. WHEELER, J. C. SPERRY, MRS. NANCY LANE KAUFFMAN, NED LANE, MRS. FRANKLIN K. LANE, J. D. GRANT, and W. R. RIVER.



The article to the left ran in the *Oakland Tribune*, August 25, 1924, and shows James C. Sperry with other dignitaries at the dedication of a saved redwood grove to the former Secretary of the Interior (and Californian) Francis K. Lane, who was the League's first president.⁹¹ J.C. Sperry is pointed out by the red arrow.

In 1926, Sperry played a key role with in negotiating on behalf of the League with Pacific Lumber over the sale of additional large acres including

Bull Run, as described in the article below, which ran in the *San Francisco Examiner*, on January 31, 1926.

SUCCESS SEEN IN REDWOODS SAVING MOVE

League Confident Reservations in Both Humboldt and Del Norte Will Be Set Aside

Success is crowning the conservation effort made by a group of forest-loving Californians to give to the State the great Sequoia grove at Kentonville, Humboldt county, California. A great Redwood Forest Reservation, comprising approximately 1,000 acres, is being set aside to light along and represent the a valuable of second nature timber in unincorporated in place in Humboldt county, California. The preservation of this grove is being carried on by the League of Women Voters of California, and the State of California, and the United States Forest Service, and the National Geographic Society.

Where the Redwood Is at Its Best



Scene at the mouth of Bull Creek, in Bull Creek Flat, proposed Redwood reservation. This stream of perennial flow furnishes abundant moisture, which is one reason for the perfect development of these great trees in this section.

Move to Save California's Redwoods Making Progress That Cheers League

(Continued from Page One.)

There are such as to favor their preservation only in California. These Redwoods then are in many ways the sublimate type of the earth's vegetation. For about thousands of years this race of trees has been growing here—the finest example we have on the earth today of the vegetation of the Miocene epoch. And now—we mean to sweep clean from end to end the finest part of the Redwood belt, where the forest is most representative of the vegetation of a geological age long since past? That would be a shameless thing to happen. It is interesting to note that over seventy per cent of all the lumbermen, owners of great stretches of Redwoods, support wholeheartedly the project of setting aside two large national reservations and a number of smaller parks where these California trees could be preserved for posterity.

LUMBERMEN TO OPERATE
The owner of this timber, the Pacific Lumber Company, one of the largest operating concerns in the lumber industry, is co-operating with the "Save - the - Redwood League" in order to determine a

fair valuation of the area to be purchased from them and taken over for public use. Conference to this and between officials of the league and the company are now taking place. It is expected that within a short time the exact price at which this property is to be

Highway Commission Plans New Bridges

EXAMINER BUREAU, SACRAMENTO, Jan. 29.—New construction and repair plans covering four California bridges, notably a new span over the Santa Maria River, were announced today by the State Highway Commission. The Santa Maria River bridge, on the Coast Highway north of the town of Santa Maria, will be 1250 feet long and of the reinforced concrete pile trestle type with a clear roadway width of 24 feet. Other plans include construction of the Honey Creek bridge on the Pacific Highway in northern Shasta county, rebuilding of the Santa Ana River bridge in Orange county and widening of the Rio Hondo bridge in Los Angeles county.

purchase will be determined and then it will rest with the interested public to secure funds necessary for setting aside this magnificent area. The league is lending its wholehearted support to this project. A finance committee has been appointed to represent the league in handling pledges and funds. It consists of J. D. Grant and William M. Crocker of San Francisco, Duncan McDuffie and J. C. Sperry of Berkeley and R. G. Sproule, vice president and comptroller of the University of California. The committee appointed to negotiate with the Pacific Lumber Company consists of the chairman, Colonel Henry H. Graves, former chief of the United States Forestry Service and now professor of Yale University and dean of its Forestry School, Professor Walter Mulford, head of the Department of Forestry in the University of California, J. C. Sperry and Duncan McDuffie. —see well known forestry expert, Major David T. Mason, who for a number of years has been directing the reforestation plans of the lumber interests in Mendocino and Humboldt counties, is participating in the negotiations.

⁹¹ "Franklin K. Lane Memorial to be Dedicated Aug. 24," *Oakland Tribune*, Aug. 5, 1924.

Interestingly Duncan McDuffie, the real estate developer who worked with Gutterson on St Francis Woods, was involved alongside Sperry in those negotiations on behalf of the League. The negotiations lasted 6 years but were successful; Bull Run was saved. In 1931, that acreage became the Humboldt Redwoods State Park.

Sperry and McDuffie crossed paths again in 1927. As noted in the article to the left, which ran in the *Los Angeles Times* on February 8, 1927, Sperry represented the League at a meeting in San Francisco of environmental preservationists, including McDuffie, chairman of the State Parks Committee, where the groups voted to endorse three bills pending before the state legislature "providing California a comprehensive State parks program." That legislation eventually passed in 1928, creating and funding the state's parks system.

The League had success later that year as reported in the article shown below, which

CONTINUED

Organizations Indorse Park Program Bills

SAN FRANCISCO, Feb. 7. (AP)—Three bills before the Legislature, providing for California a comprehensive State parks program, were indorsed today at a meeting in the Palace Hotel here, attended by representatives of organizations interested in conservation, recreation and outdoor life. The measures indorsed were Senate bills 439, 440 and 441, which provide for a Central State Park Commission, a survey of park properties, and for submission to the voters in November, 1928, a \$6,000,000 bond issue to pay half the costs of park projects approved by the commission. The other half of the money would be raised by private gift, and from other sources.

Duncan McDuffie, chairman of the State Parks Committee, presided at the meeting. Others present were: William E. Colby, Sierra Club; Winfield Scott, Miss Susan P. Thew and Mrs. Harriett West Jackson of Stockton, Calaveras Big Trees Association; William Orrick, Point Lobos Association; Hillary Crawford, Marin park committee of the Tamalpais Conservation Club, and J. C. Sperry and Newton B. Drury of the Save-the-Redwoods League.

appeared in the *Los Angeles Times*, on July 8, 1927, and described and describes a ceremony celebrating the addition of "vast scenic regions of Kern River Canyon, Mt. Whitney and the headwaters of Kaweah" to the Sequoia National Park. Sperry attended on behalf of the Save the Redwoods League.

SEQUOIA PARK CELEBRATION

Dedication Ceremonies to be Conducted Sunday for Recently Added Scenic Regions

GIANT FOREST (Sequoia National Park) July 7.—Addition to Sequoia National Park of the vast scenic regions of Kern River Canyon, Mt. Whitney and the headwaters of the Kaweah, will be celebrated in dedication ceremonies at the administration center in Giant Forest Sunday morning, July 8 at 10:30.

Participating in the ceremonies will be Stephen T. Mather of Washington, D. C., director of national parks, Congressman H. E. Hubbard, father of the park enlargement bill; Ralph W. Phelps of San Francisco, representative of the National Geographic Society; J. C. Sperry of the "Save the Redwoods League"; Dr. Hart Merriman, scientist of the University of California; William E. Colby of the Sierra Club, Senator W. P. Chandler of Fresno; Col. George W. Stewart of Sacramento, and many prominent men.

A bronze tablet, purchased by the National Geographic Society, and bearing an inscription paying tribute to the public-spirited Americans who gave of their time and money to acquire the private holdings in Giant Forest for the park, that they might be preserved for posterity, will be dedicated. This tablet has been received from Washington, D. C., by Supt. John E. White, and will be mounted on a Sequoia slab.

Miss Aurelia H. Harwood of Colton, Cal., president of the Sierra Club, will be in charge of a campfire program given in the evening at Woodhouse by the Sierra Club, which will be encamped there for a couple of nights on their annual outing. On the 11th inst., the Sierra Club will move on to Redwood Meadows, where Director Mather will be their guest for one night. Later they will go over Black Rock Pass, one of the highest passes in the Sierra to Kern Canyon, where they will remain for the rest of their outing.

Fatal Shooting Details Told at Death Inquest

BAKERSFIELD, July 7.—"He had his hands in the bib of his overalls, and wouldn't take them out. I shot quick. He rolled into a ditch out of sight and I threw another shell into the rifle, thinking he would come up with a gun in his hand. He didn't move."

Thus James Wingfield, held for the murder of Anton Marius in the Green Horn Mountains last Sunday, recounted the shooting affray to Deputy Sheriff Vance Britz, according to testimony introduced by the officer at a coroner's inquest. The jury returned a murder verdict, finding that Marius came to his death from a "gunshot wound that penetrated his chest, piercing the aorta. The shot, we presume, was fired by J. Wingfield with homicidal intent."

Today a charge of murder was filed against Wingfield, the District Attorney's office reported.

MURDER CHARGE IN AUTO DEATH FILED

BAKERSFIELD, July 7.—Richard Thompson, 17-year-old Bakersfield youth, was charged Wednesday with the murder of Dennis Savage, 28, who died here of injuries incurred Saturday night, when he was struck by

In addition to Save the Redwoods League, J.C. Sperry and other “prominent citizens” including his cousin, Mrs. William H. Crocker, formed another organization – the Calaveras Grove Association – in 1926 in an attempt to acquire the famous North Grove from Whiteside (the person to whom J.C.’s father sold his holdings).⁹² The North Grove totaled 1760 acres of old growth forest, including 110 “big trees.” With the League’s assistance, the North Grove was acquired and eventually become Calaveras Big Trees State park in 1931.

The Sperry Family’s love of trees –and particularly big trees -- is evident in the landscape that they commissioned Mabel Symmes to create for the twin homes on Hawthorne Terrace, which features a redwood grove at the corner of Vine Lane and

Hawthorne Terrace. It includes a rare so-called dawn redwood (*Metasequoia glyptostroboides*), which is deciduous. Dawn redwoods were so rare that they were originally thought to be extinct. That grove remains to this day as a wonderful reminder of the Sperry family’s love of those trees.

Interestingly, the Sperry’s love of redwoods was shared with the next owners of the 1450 House, Donald and Sylvia McLaughlin. Both Donald and Sylvia McLaughlin sat on the board of Save the Redwoods League.⁹³ The techniques for preserving large areas for park land that the Redwoods League pioneered in the 1920s and 1930s were later used by Sylvia McLaughlin in connection with her work for Save the Bay, Citizens for the Eastshore State Park, and Trust for Public Lands.

(Obituary, *Oakland Tribune*, Nov. 22, 1942; photo above courtesy of BAHA)

he said

JAMES C. SPERRY, 'MAN WHO SAVED REDWOODS,' DEAD

BERKELEY, Nov. 21 — James Clarence Sperry, 68, one of the organizers of the Save the Redwoods League and a life-long worker for the preservation of natural beauty, died yesterday at his home, 1450 Hawthorne Terrace, after a long illness.

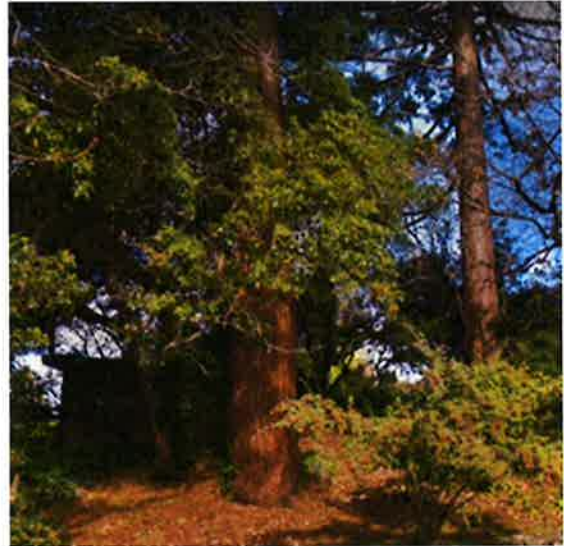
Sperry, who was born in the Mother Lode town of Murphys, was the son of James Leverett Sperry, a pioneer of that area. Sperry, senior, was a tree lover and was instrumental in saving the grove known as Calaveras Big Trees. His son, who received his middle name from Clarence King, famous mountaineer and member of the Whitney survey, later helped to make the area a State park.

He was the first manager of the Save the Redwoods League and served on the board of directors from 1921 until his death. He is credited with preserving the Del Norte redwood grove and was responsible for its dedication as a park.

Sperry was also a retired mining engineer and had made his home here since graduation from the University of California in 1900.

He is survived by his wife, Adelia Osmond Sperry, a son, James Osmond, and a sister, Marion Sperry Marsh.

Private funeral services will be held Monday at Cypress Lawn in San Francisco.



⁹² “Battle to Preserve Calaveras Big Trees Opens: Purchase for State Park Is Present Plan,” *San Francisco Examiner*, Oct. 24, 1926.

⁹³<https://www.advocate-news.com/2016/01/21/sylvia-mclaughlin-last-living-founder-of-save-the-bay-dies-at-age-99/>

2. SYLVIA AND DONALD MCLAUGHLIN

a. DONALD McLAUGHLIN: IMPORTANT U.C. REGENT

Like James C. Sperry, Donald H. McLaughlin had an unusual upbringing in Northern California, and like Sperry, his early life instilled in him a great love of the outdoors, particularly Northern California's unique ecosystem.



Donald was born in Berkeley (circa 1891). Donald's father William Henry McLaughlin was a physician, who died when he was young.⁹⁴ His mother Katherine Hamilton McLaughlin became Phoebe Apperson Hearst's private secretary, and Donald grew up in Oakland and later Berkeley. Phoebe Apperson Hearst (1842-1919), of course, was the wife of George Hearst, the famously successful miner and later U.S. Senator for California, and mother of William Randolph Hearst. She was in her own right a feminist, suffragist, and a great philanthropist. She was also one of the greatest benefactors of the University, and its first female Regent. (Left, Photo by Lyons, Louis S., [from old catalog] ed; Wilson, Josephine, Mrs., [from old catalog] ed (Who's

who among the women of California) [Public domain], via Wikimedia Commons)

Mrs. Hearst and Donald were close. During his early years, Donald McLaughlin stayed in one of the villas at Hearst Castle (in Richelieu's bed, no less) and her famous Pleasanton Hacienda, which burned to the ground some years later.

Don graduated from Berkeley High School and attended U.C. Berkeley, graduating in 1914 Phi Beta Kappa. With Mrs. Hearst's encouragement, he obtained an M.A. and Ph.D. from Harvard University. During World War I, he served in France in the 63rd Infantry. Thereafter he was hired by the Cerror de Pasco Copper Corp. in Peru as its chief geologist. He returned to the United States in 1926 and shortly after joined the Harvard faculty and became Chairman of the Division of Geological Sciences at Harvard. (Drawing, UC Archives.)



⁹⁴ Donald H. McLaughlin, "Careers in mining geology and management, university governance and teaching : transcript, 1970-1971," an oral history conducted in 1970 and 1971 by Harriet Nathan, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1975.

He returned to Berkeley in around 1941 to become Dean of the School of Mining. He also served as a professor of mining, and later Dean of the School of Engineering. During the McCarthy era, he stood firmly with the professors against requiring a loyalty oath.⁹⁵ In 1951, Governor Earl Warren appointed him as U.C. Regent, and he served in that capacity for 16 years, becoming Chair and one of the most influential Regents in University history.



McLaughlin also worked in various capacities for Homestake Mining Company. He eventually was appointed the company's president and became Chairman of the Board. He also served on numerous corporate boards, including Wells Fargo, and public commissions, such as the National Science Foundation. In 1980, one year before he retired from Homestake, the largest gold discovery of the 20th Century in California was named the McLaughlin Mine in his honor.

Although his career in mining engineering and geology took him all over the globe – where he explored for gold and other minerals frequently on horseback -- he truly loved Berkeley and was devoted to the University.



(photos: University archives)

Seven years after he returned to Berkeley, he married Sylvia in 1948, and they eventually landed (with two children in tow) living with his mother at a house on Hawthorne Terrace just up the street from 1450. Informed by one of his children (who were still very young) that the neighbors (the Sperry family) were selling the house at 1450 Hawthorne Terrace, he and Sylvia made an offer for it before it came on the market and moved in shortly thereafter.

During the tumultuous Free Speech movement in the 1960s, he held meetings of the Regents at his home to provide them a quiet place to discuss important issues.

Don and Sylvia hosted numerous large parties filled with professors, Nobel Laureates, local politicians, environmental activists, artists, musicians and writers.

⁹⁵ Obituary, *San Francisco Examiner*, Dec. 31, 1984.

None of these parties were in anyway pretentious; indeed, they were quite the opposite. All of the neighbors were invited (always), and the atmosphere was lively and fun. Good talk was more important than impressing people, and ideas mattered. One of the most noteworthy things about Donald McLaughlin was the support and love he gave Sylvia as she became increasingly involved in Save the Bay and other environmental causes. Perhaps his willingness to support Sylvia was borne from his upbringing by a single employed mother and the example of Phoebe Apperson Hearst. Whatever the source, Sylvia could not have done it without the support and affection of her husband.

Donald McLaughlin loved nothing more in his later years than to sit on the shared patio of his home in the sun watching the hummingbirds in the backyard. He passed away in January 1985.



(Photo courtesy of BAHA)

b. SYLVIA C. McLAUGHLIN: WOMAN WHO SAVED THE BAY

Sylvia was born on December 24, 1916, to George and Jean Cranmer. A little known fact is that her grandmother on her father's side was a native American (Cherokee).⁹⁶ Her father left Wall Street for Denver, Colorado, which is where she grew up. The introduction to her Oral History, says the following about her parents:

Her parents, George Ernest Cranmer and Jean Louise Chappell Cranmer, provided models of civic engagement and plenty of examples of visionary thinking, as well as deep interest in parks, outdoor recreation, the arts, and community. Her father was manager of Parks and Improvements for Denver, Colorado, from 1935-1947, building ski areas, swimming pools, the Red Rocks theater, Stapleton Airport, and water works. Her mother was a founder of the Denver symphony, and their home had frequent visitors from the worlds of art, music, and sports.

Her father was responsible for the creation of Winter Park, the well-known ski resort, and Sylvia was an accomplished skier. Sylvia's great love of the outdoors was fostered in Colorado during her early years.

Sylvia was also the only daughter in a family of boys, so she learned to get along in a rough and tumble environment. A frieze of a very young Sylvia and two of her brothers (shown in part below) from those early years – transplanted when the family home in Denver was dismantled years ago -- is still standing outside the dining room door of the Sperry-McLaughlin house under the wisteria arbor. (Photo: author)



⁹⁶ Sylvia McLaughlin, "Citizen Activist for the Environment: Saving San Francisco Bay, Promoting Shoreline Parks and Natural Values in Urban and Campus Planning," conducted by Ann Lage, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 2009, at 3.



Sylvia left Denver to attend Vassar College, which was all female at the time. After a post-college detour in war work, Sylvia met and married Donald who was 24 years her senior. It was Don's second marriage (his first wife died in 1941), and her first. She moved to Berkeley and raised two children – Jean (who went by Jeanie) and George. (Photo of painting of Sylvia McLaughlin, courtesy of BAHA)

It was during those early years while living at 1450 Hawthorne Terrace, that Sylvia first became concerned about what was happening to the San

Francisco Bay:

Settling into a home in Berkeley and beginning to raise a family, Sylvia was prompted to begin what became a lifelong crusade by the view from her hillside home: “We could see the dump trucks going down and filling the bay constantly. . . . It was a dump.”⁹⁷

Sylvia eventually connected with two other faculty wives, Kay Kerr and Esther Gulick, and, in 1961, established Save the Bay. Their first priority was to stop the dumping and filling in, which was a very ambitious goal. It was also not the type of



Sylvia McLaughlin, center, with fellow Save the Bay co founders Kay Kerr and Esther Gulick Photo: Save the Bay

⁹⁷ *Id.* at xi.



The founders of Save The Bay, from top, Kay Kerr, Esther Gulick and Sylvia McLaughlin.

activity normally associated with middle aged faculty wives, but then again there was nothing typical about them. They were strong and determined. At the beginning, Katherine Kerr served as president; Sylvia as Treasurer.

As one of her dear friends and environmental colleagues Robert Cheasty, President, Citizens for East Shore Parks, later summarized it,

[Sylvia] was almost desperate to stop the plans to fill the bay. After trying to get the major conservation leaders to do this for her and striking out, she got together with two friends, Kay Kerr and Esther Gulick. They built saving the bay into probably the

first recognizable grass roots environmental movement. She tapped a nerve; ignited the imaginations of the Bay Area and sparked a prairie fire that spread across the country to communities everywhere. Following on the heels of Rachel Carson's *Silent Spring* this was the call to action that people could understand, people could respond to. You might say our modern environmental movement was set off by three desperate housewives.⁹⁸

The three organized support for their efforts and then took on the businesses that were doing or permitting the dumping and local and state authorities who were allowing this to occur. They pushed for new legislation, enforcement of existing laws, and stricter regulation. Indeed, many of their strategies and techniques had been proven successful by the earlier efforts of Save the Redwoods League.

One of the most striking things about Sylvia was how soft spoken she was, yet despite that fact, she made herself and Save the Bay heard. Sylvia organized meetings with business leaders (most of whom would not refuse to meet with the wife of the president of Homestake Mining and a UC Regent), buttonholed

⁹⁸ <http://eastshorepark.org/pdfs/ALifeWellLived.pdf>

legislators, and pressured regulators. She was quite literally tireless. There was hardly a time in the 1970s and 1980s that local politicians, municipal water



authorities, and regulators were not personally familiar with Sylvia.

Perhaps the most significant achievement of Save the Bay was the passage of the McAteer-Petris Act. As the BCDC website explains:

At Save the Bay's urging, the **McAteer-Petris Act** was enacted in 1965. It established BCDC as a temporary state agency, designated the San Francisco Bay as a State-protected resource, and charged the Commission with preparing a plan for the long-term use of the Bay and regulating development in and around the Bay while the plan was being prepared. BCDC was established as the Nation's first coastal zone management agency. . . . BCDC's initial **San Francisco Bay Plan** was approved in 1968 and BCDC was made permanent one year later. The Bay Plan is updated regularly so that the Bay and its shoreline are used responsibly and to address new issues as the Bay Area changes. The Plan includes policies on issues critical to the Bay ranging from port activities and public access to urban development and transportation. The Bay Plan maps the entire Bay and designates areas for water-related purposes such as ports, industry, public recreation, airports, and wildlife refuges.

(photo courtesy of Save the Bay)

The success of Save the Bay is, of course, well documented in both the media and in any number of books about Bay Area history, efforts to improve water quality, and the California environmental movement.

Sylvia was also devoted and heavily involved in the Audubon Society (she sat on the Board for many years), Save the Redwoods League, the Trust for Public Land, Citizens for Eastshore State Park, the Sierra Club, the League of Women Voters, the National Resources Defense Council and many others.

Significantly, she routinely opened her Hawthorne Terrace home for meetings, fundraisers, and parties in support of all of these causes. She also supported local candidates who ran on a pro-environmental platform and campaigned on their behalf. Many an envelope was stuffed, and a petition organized at 1450. As Doris Sloan (Citizens for Eastshore State Park) fondly recalled,

For years she was a welcoming hostess for meetings beyond counting in her living room. How many envelopes we stuffed around her dining room table, how many fund appeals were planned and then thank yous handwritten in that dining room.⁹⁹

Sylvia was also active in efforts to preserve local historical and architectural sites. She was involved early on in trying to preserve historic assets on the Berkeley campus, and regularly supported BAHA (the Berkeley Architectural Heritage Association), including by opening her home to members for meetings.

In addition to her family and environmental advocacy, Sylvia's other abiding love was her garden at 1450 as indicated in the photo below, which ran in 1998 and is captioned, "Environmentalist Sylvia McLaughlin takes pride in her North Berkeley rose garden."¹⁰⁰ She was particularly partial to red roses, which given her preference



Environmental activist Sylvia McLaughlin takes pride in her North Berkeley rose garden.

⁹⁹ <http://eastshorepark.org/pdfs/SylviaDorisSloan.pdf>

¹⁰⁰ "Activist Sylvia McLaughlin Cares for Berkeley," *Cal Neighbors*, Fall 1998. Photo by Janes Scherr.

for all things red, made complete sense. (NB: Sylvia almost always wore red, and favored a bright orange red above most others)

Sylvia's annual birthday party was always a highlight of the holiday season. She invited friends from all parts of her active life, including local politicians, activists, environmentalists, preservationists, musicians, academics, neighbors, family, and other friends. When Don was alive, University President Charles Hitch, members of the Board of Regents, and corporate leaders were frequent guests. Guests would mix and mingle in the living room, dining room, and the shared patio. In today's polarizing times, it is hard to look back on that special time when people at the polar opposite of each other politically could put their differences aside to talk and exchange ideas (and celebrate) with this very special woman.

After Don's death in 1985, Sylvia did not let age deter her agenda. At 90, she and other local activists including Shirley Dean and Betty Olds participated in a sit-in in front of the Coliseum to protest the proposed removal of old-growth Live Oaks. Their activity caught the attention of the national media, and soon thereafter *Vanity Fair* Magazine ran an article about the protest and the older activists including Sylvia who participated.



Sylvia is in the red jacket at the photo on the right (photo courtesy of the Berkeley Planet).

In 2012, the Eastshore State Park



Sylvia McLaughlin and her family at the dedication of the Sylvia McLaughlin Eastshore State Park in 2013. (Photo courtesy East Bay Regional Park District)

for which she tirelessly advocated was named in

her honor. Many Berkeley citizens spoke at the public hearings advocating for its dedication to her. Not surprisingly, Sylvia had initially rejected the idea of naming the park after her, because she rejected all forms of self-promotion. Convinced by friends that such recognition would not diminish the efforts including her friends Kay Kerr and Esther Gulick and Dwight Steele, Sylvia came to accept the honor cheerfully.

Sylvia passed away in January 2016. Her passing was covered nationally¹⁰¹ and served as a reminder both of this remarkable woman and that the current environmental movement originated here in Berkeley.



Mclaughlin, co-founder of *Save the Bay*, leads a gang of politicians and park directors to the ribbon cutting for the first completed Eastshore State Park. Sylvia's advocacy for shoreline parks began over 50 years ago.



¹⁰¹ <https://blog.savesfbay.org/2016/02/sylvia-mclaughlin-a-life-of-impact/>; https://www.tulsaworld.com/obituaries/nationalobits/san-francisco-bay-area-environmentalist-sylvia-mclaughlin-dies-at/article_f0870d7e-4e1d-56e5-a3fa-6d10b32c8c15.html; <http://www.chicagotribune.com/news/ct-xpm-2005-09-25-0509250423-story.html>; <https://www.washingtontimes.com/news/2016/jan/21/environmentalist-sylvia-mclaughlin-dies-at-age-99/>;

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ACKNOWLEDGEMENTS

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 - Carrie Olson, BAHA
 - Daniella Thompson, BAHA
 - Anthony Bruce, BAHA

- Marlea Graham
Editrix emeritus
California Garden & Landscape History Society

- Joe. R. McBride
Professor Emeritus
Department of Landscape Architecture & Environmental Planning
University of California, Berkeley

- Elizabeth Macdonald
Professor and Chair
Department of Landscape Architecture & Environmental Planning
Professor, Department of City & Regional Planning, Urban Design
University of California, Berkeley

- Larisa Shaterian, Sylvia McLaughlin's Granddaughter

- George Shay, Magnavox Historical Society

- Chris Pattillo, FASLA

- Meghan Ray
Blake Garden
Department of Landscape Architecture and Environmental Design
University of California Berkeley

- Chris Marino, Curator
Environmental Design Archives
University of California

- Scott Craver, Ph.D.
FAAR, Editorial Director
The Cultural Landscape Foundation

APPENDIX

- A. Photos of Select Features to be Preserved
- B. Survey and Maps
- C. Original Building Permit Paperwork
- D. Original Landscape Design by M. Symmes
- E. Original Hardscape Drawings by H. Gutterson
- F. Article about zoning application pertaining to property
- G. Berkeley Urban Conservation Study
- H. Select Articles and Handouts

EXHIBIT A

Photos of Select (not all) Features to Be Preserved: Sperry-McLaughlin House









EXHIBIT B

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2249
PAGE-2.

ASSESSOR'S MAP 59 Code Area No. 13-000

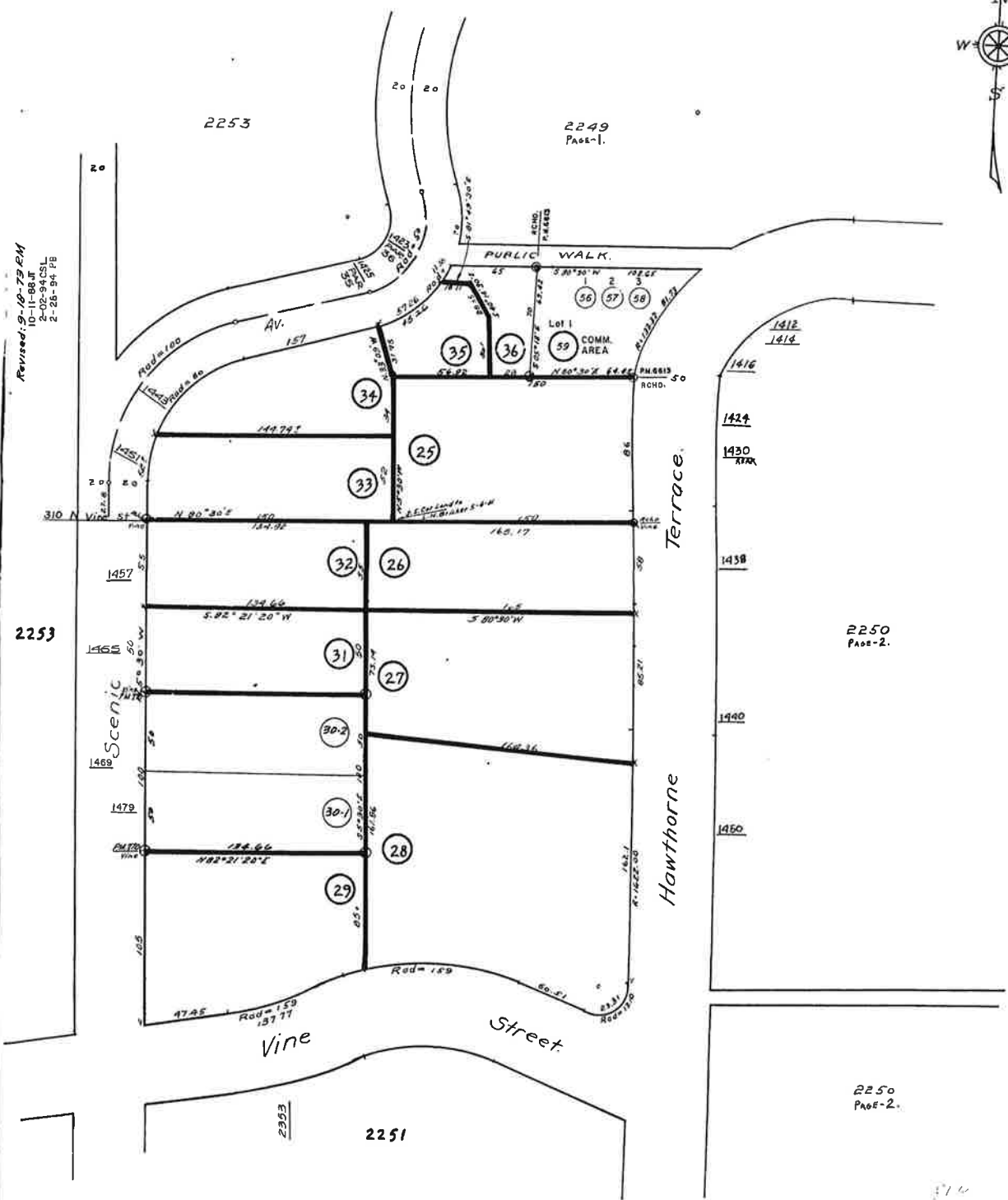
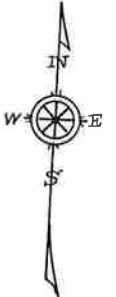
Map of the Ranchos of Vicente and Domingo Peralta (Plot 84)

Scale: 1" = 50'

P.M. 270 (Bk. 54 Pg. 53)

VINE STREET AND HAWTHORNE TERRACE EXT. (Bk. 19 Pg. 45)

P.M. 6613 211/60



Revised: 9-10-79 BM
10-11-88 M
2-26-94 PB
2-26-94 PB

2253

Scenic Av.

Hawthorne Terrace

Vine Street

2251

2250
PAGE-2.

2250
PAGE-2.

ASSESSOR'S MAP 59

Code Area No.13-000

Map of the Ranchos of Vicente and Domingo Peralta: Plot 84. (Bk.17 Pg.12)

Hopkins Terrace Map N^o 3. (Bk.19 Pg.34)

TR. 4595 140/92

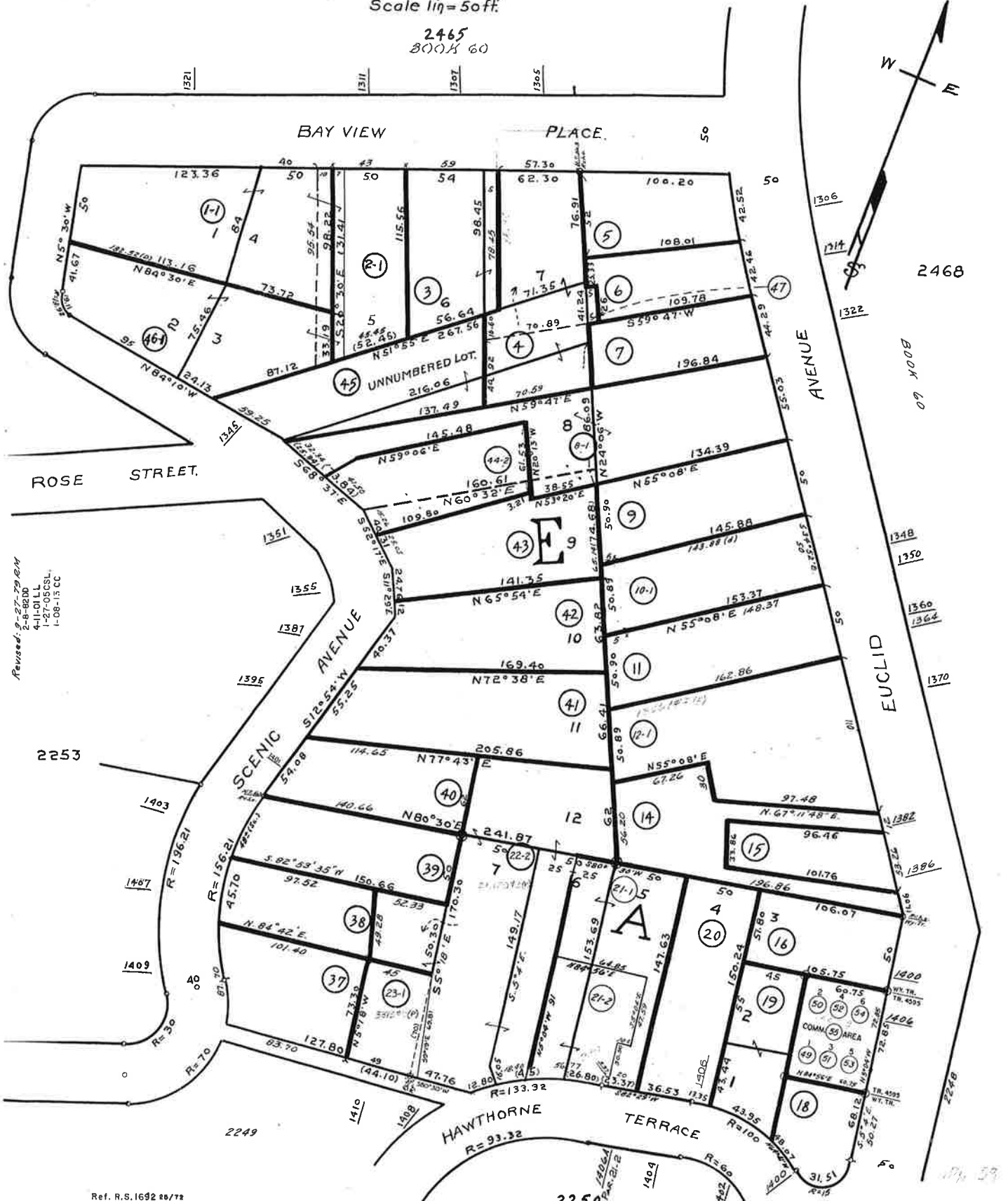
Map of the Whitney Tract. (Bk.20 Pg.43)

Scale 1 in = 50 ft.

2249

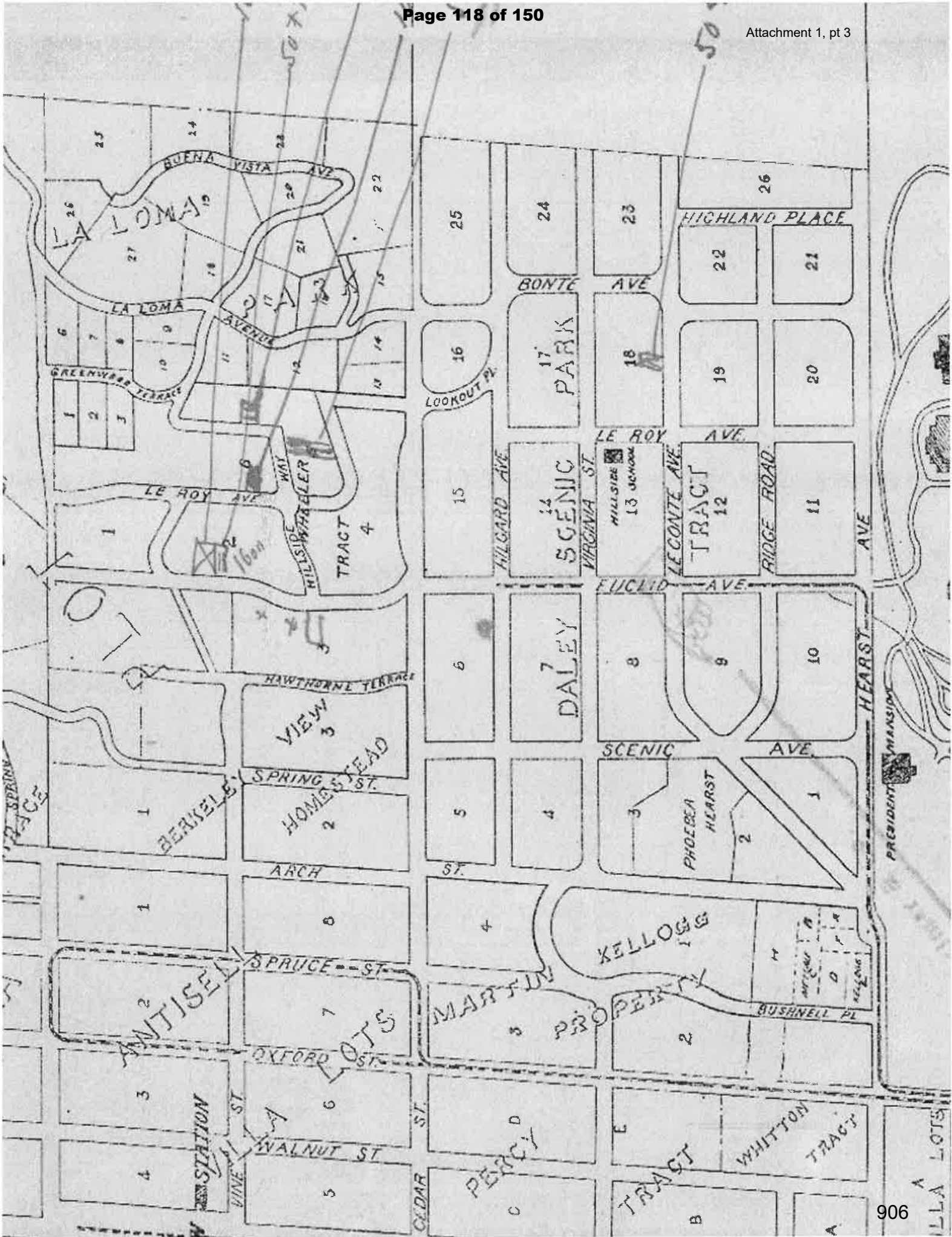
Page E-1

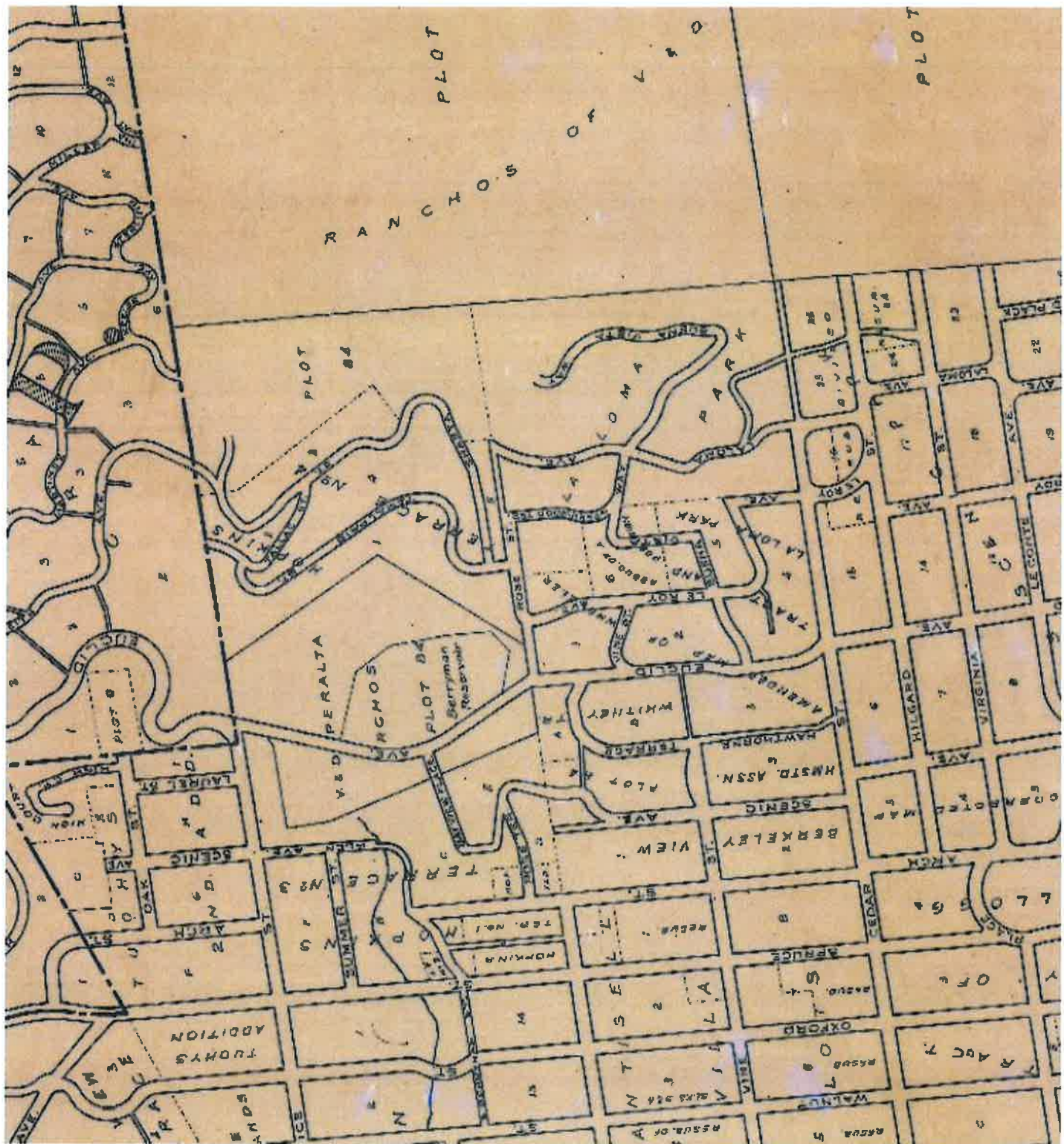
2465
BOOK 60

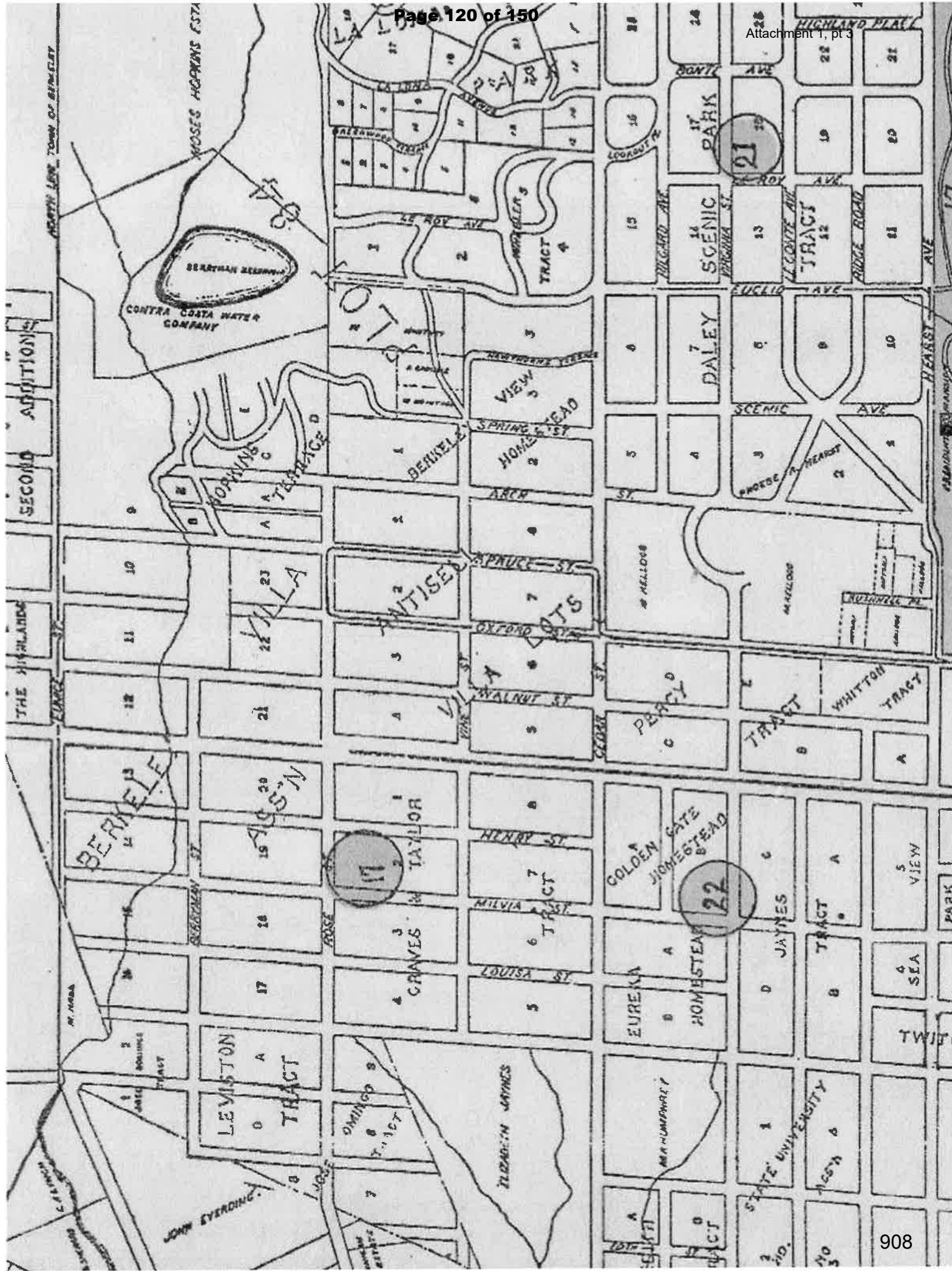


Revised: 2-27-79,EM
 2-8-82,DD
 4-1-01,LL
 1-27-05,SL
 1-08-15,CC

Ref. R.S.1692 88/72









Record of Survey 2574 Map BK 39

PG 34

RECORD OF SURVEY 2574

LANDS OF WOMEN AND MENDELSON
BEING A PORTION OF THE "CARLELE" PARCEL
BEING A PORTION OF THE "CARLELE" PARCEL
MAP OF VINE STREET AND HAWTHORNE TERRACE EXTENSION (19 445)
CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA
DECEMBER 2013
SCALE: 1" = 30'



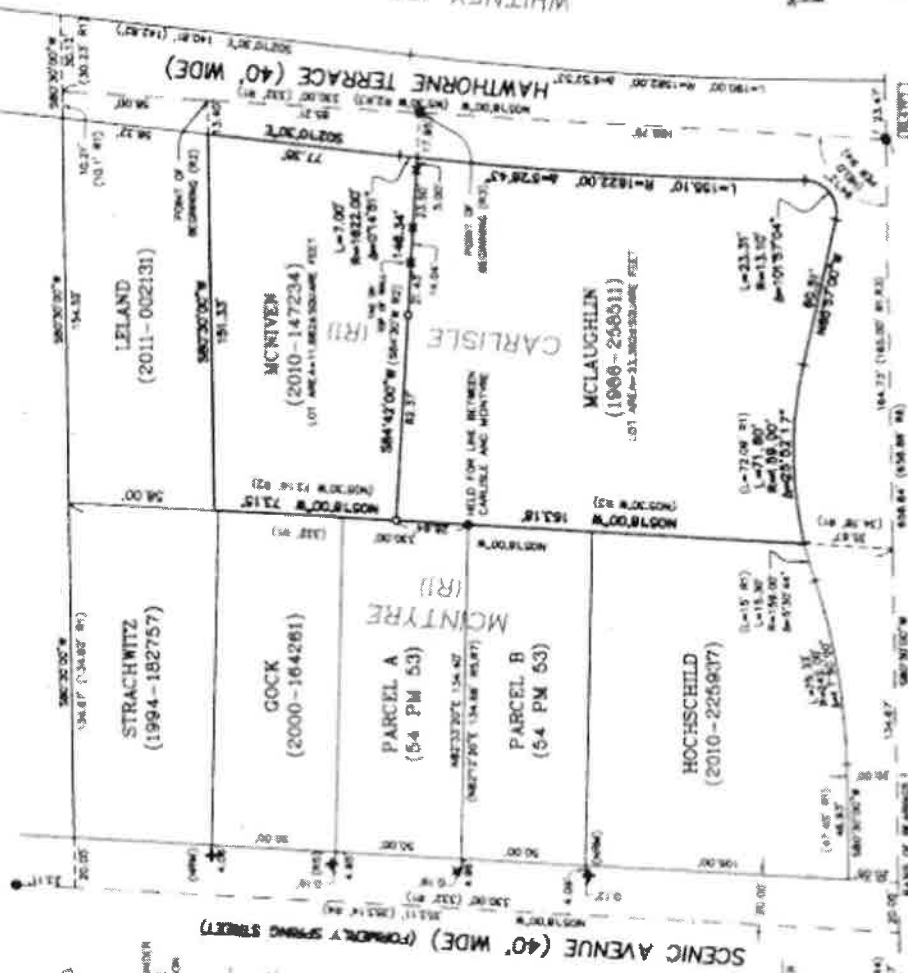
LEGEND:
ALAMEDA COUNTY RECORDS &
NO RECORD OF MONUMENT
1 2014

- NOTES:**
THIS RECORD OF SURVEY IS BEING FILED IN COMPLIANCE WITH SECTION 5342 (a), PARAGRAPHS 1, 2, 3, 4, AND 5, OF THE PROFESSIONAL LAND SURVEYORS ACT.
NO TITLE REPORT WAS REQUIRED. SURVEYORS MAY CASE.
- SYMBOL LEGEND:**
 T FOUND T MARKS ARE WITH PLUMB IN STANDARD MONUMENT WELL-UNLESS OTHERWISE NOTED (M)
 + FOUND CHAINS AS NOTED
 o FOUND NAIL OR CHISEL ON TOP OF CONCRETE WALL (RT)
 x FOUND NAIL AND 1/2" BRASS TAG 1/2" DIA (PT)
 M SET NAIL AND 3/4" BRASS TAG 1/2" DIA (PT)
 o SET NAIL AND 1/2" BRASS TAG 1/2" DIA (PT)
 o SET 5/8" BRASS AND PLASTIC CAP 1/2" DIA (PT)



MORAN ENGINEERING, INC.
CIVIL ENGINEERS / LAND SURVEYORS
1640 HOLLYWOOD AVENUE, SUITE A
BERKELEY, CALIFORNIA 94704
(916) 848-1359
FAX: (916) 848-1358
WWW.MORANENGINEERING.COM

BOUNDARY NOTES:
1) SHORTLY ALONG MONUMENT LINE AND
MARKED SET (1.4' OFF) CENTERLINE OF HAWTHORNE
TERRACE EXTENSION AT HAWTHORNE TERRACE
2) SET NAIL AND 1/2" BRASS TAG (1.5' OFF) AT
HOLD EAST LINE OF CARLELE PARCEL (R1) AT 50' PER (R1, 132' BY 80')
3) SET NAIL AND 1/2" BRASS TAG (1.5' OFF) AT
HAWTHORNE TERRACE PER (R1), LEAVING THE SOUTHWEST CORNER
4) SET NAIL AND 1/2" BRASS TAG (1.5' OFF) AT
INTERSECTION WITH SCENIC AVENUE AND WITH THE SOUTHWEST CORNER
OF CARLELE PARCEL.



REFERENCES:
01 MAP OF VINE STREET AND HAWTHORNE TERRACE EXTENSION (19 445)
02 GRANT DEED TO MCVEN (2010-147234)
03 GRANT DEED TO MCLAUGHLIN (1999-256511)
04 CITY OF BERKELEY DEPARTMENT CARDS
05 PARCEL MAP 276 (24 04 53)
06 PARCEL MAP 0813 (21 04 00-01)
07 CONCORD RECORD-4864 (44 OF 88)

RANGES OF BEARINGS:
THE BEARINGS IN VINE STREET TAKEN AS
SHOWN ON PARCEL MAP 0813 (NO)

SURVEYOR'S STATEMENT:
THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER
MY DIRECTION IN COMPLIANCE WITH THE REQUIREMENTS OF THE
PROFESSIONAL LAND SURVEYORS ACT AT THE REQUEST OF MARION
WOMEN IN NOVEMBER 2013.

PAUL D. LIONS, L.S. 5995
DATE: JANUARY 15, 2014

COUNTY SURVEYOR'S STATEMENT:
THIS MAP HAS BEEN EXAMINED IN ACCORDANCE WITH SECTION
5342 (a) OF THE PROFESSIONAL LAND SURVEYORS ACT AND
IS CORRECT AS SHOWN ON THE MAP.

RECORDER'S STATEMENT:
FILED ON THIS DATE AT THE OFFICE OF THE
CLERK OF SUPERIOR COURT, COUNTY OF ALAMEDA,
AT BERKELEY, CALIFORNIA, IN THE
RECORDS OF SURVEY AT THE REQUEST OF MORAN ENGINEERING, INC.



APR 055-2348-027 & 028 P.B. 140 & 141-81 HAWTHORNE-080-080 238 043 13-5004 SHEET 1 OF 1

EXHIBIT C

APPLICATION FOR BUILDING PERMIT FRAME BUILDING

Application is hereby made to the Department of Buildings and Inspections of the City of Berkeley for permission to build a two story two room frame apartments and garage on the east side of Sanchez Street Surge N.W. corner of Hawthorne Street and Pine St. Block _____ Tract _____

According to plans and specifications herewith submitted. All provisions of the Building Law will be complied with in the erection of said building whether specified herein or not.

Estimated entire cost of building \$ 62107.00

Building to be occupied as dwelling by (No.) three families

Size of lot 140 ft. by 250 feet Hawthorne & Pine St.

Size of proposed building 40 ft. by 170-0 ft. Extreme height of building 28-0 ft.

Height in clear of cellar 9 ft. 0 in. Height in clear of first story 9 ft. 0 in.

Height in clear of second story 9 ft. 0 in. Height in clear of third story _____ ft. _____ in.

Foundation to be of (material) concrete (Thickness) 12" inches, greatest height of foundation 8' inches.

Width of footings 17" inches.

Main sills 2 x 6 Main sills 4 x 6 Girders X Post on piers X If piers are used give size _____ by _____ ft. on centers.

Size of underpinning 2 x 6 inches 16 inches O. C. Size of studs in first story 2 x 4 inches 16 inches O. C.

Size of studs in second story 2 x 4 inches 16 inches O. C. Size of studs in third story X inches O. C.

Exterior wall coverings to be of O.P. shingles Light shaft wall coverings to be of _____

All outside walls covered with shingles or plaster will be close boarded.

Floor joists 2 x 12 inches 16 inches on centers. Longest span between supports 16'-0 ft.

Second floor joists 2 x 12 inches 16 inches on centers. Longest span between supports 17'-0 ft.

Third floor joists X inches _____ inches on centers. Longest span between supports _____ ft.

Ceiling joists 2 x 4 inches 16 inches on centers. Longest span between supports 14'-0 ft.

Battens 2 x 6 inches 24 inches on centers. Longest span between supports _____ ft.

Roof covered with O.P. shingles & tile Steep or flat? pitch Pitch _____

Seeds in bearing partitions will be same as outside walls of each story.

Chimneys of brick lined with terra cotta any patent flues? no

Gas grate flues to be patent chimney or brick? _____

Any dumb waiters or chutes? 2 clothes chutes Any elevator (freight or passenger)? no

Cove brackets will be solid.

Name of Owner of Ground Mr & Mrs J. G. Sperry Residence Address 2425 Durant

Name of Owner of Building _____ Residence Address _____

Name of Lessee of Building _____ Residence Address _____

Name of Architect or Designer Henry G. Gustafson Residence Address 526 Powell St. San Francisco

Name of Builder A. Lederborg Residence Address 1455 Exclusion Ave. Oakland

I hereby agree to save, indemnify and keep harmless the City of Berkeley against all liabilities, judgments, costs and expenses which may in any wise accrue against said City in consequence of the granting of this permit, or from the use or occupancy of any sidewalk, street or sub-sidewalk space by virtue thereof, and will in all things strictly comply with the conditions of this permit and Ordinances of the City of Berkeley.

A. Lederborg
Signature of Owner, Architect or Builder
Address 1455 Exclusion Ave

This Permit expires one year from date unless sooner revoked by the City Council.

Date AUG 21 1924

Permit No. 17854

#17854

**CITY OF BERKELEY
Interdepartmental Memorandum**

From City Clerk

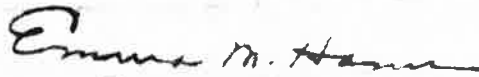
Date Feb. 25, 1925.

To S. P. Koch, Building Inspector.

Subject;

Please be advised that the City Council at its session of February 24th granted a revocable permit to J. C. Sperry to erect a 5' hollow tile wall and a wooden pergola within the 5' set back area on the Hawthorne Terrace frontage of his property at the northwest corner of Vine street and Hawthorne Terrace.

Very truly yours,



Emma M. Hann
City Clerk.

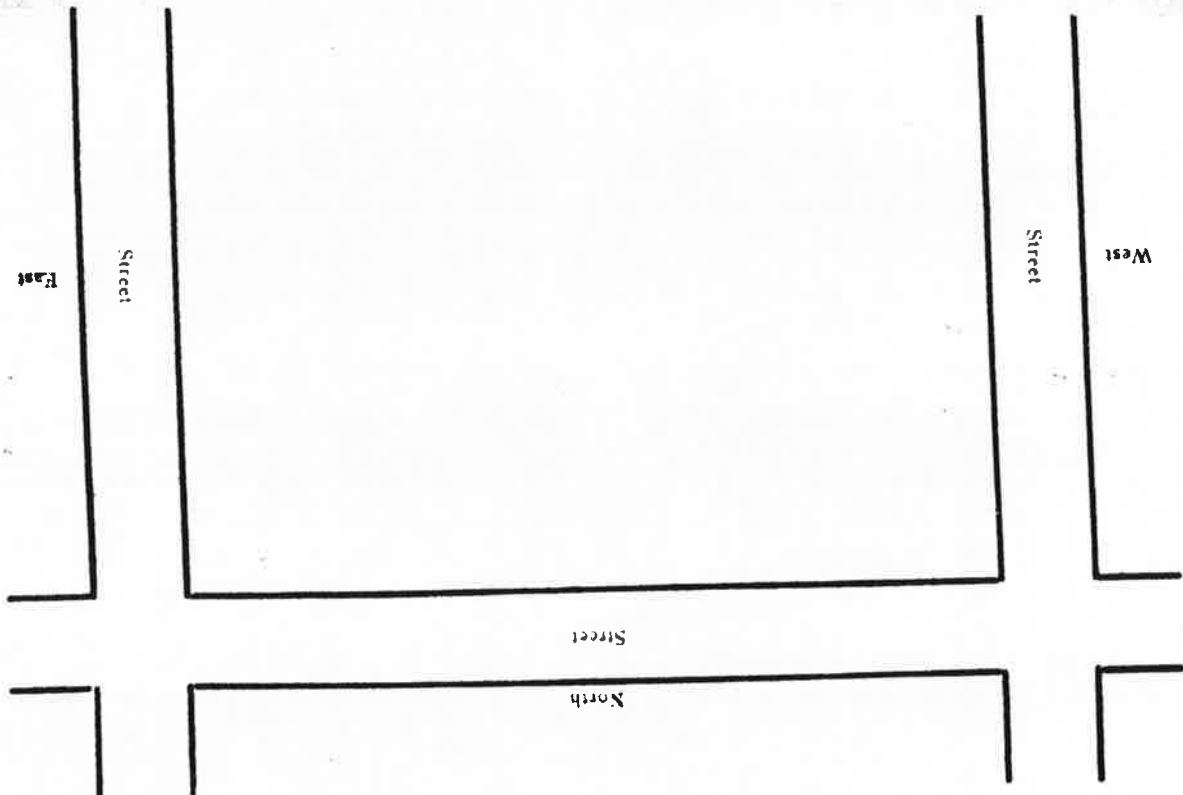


EXHIBIT D

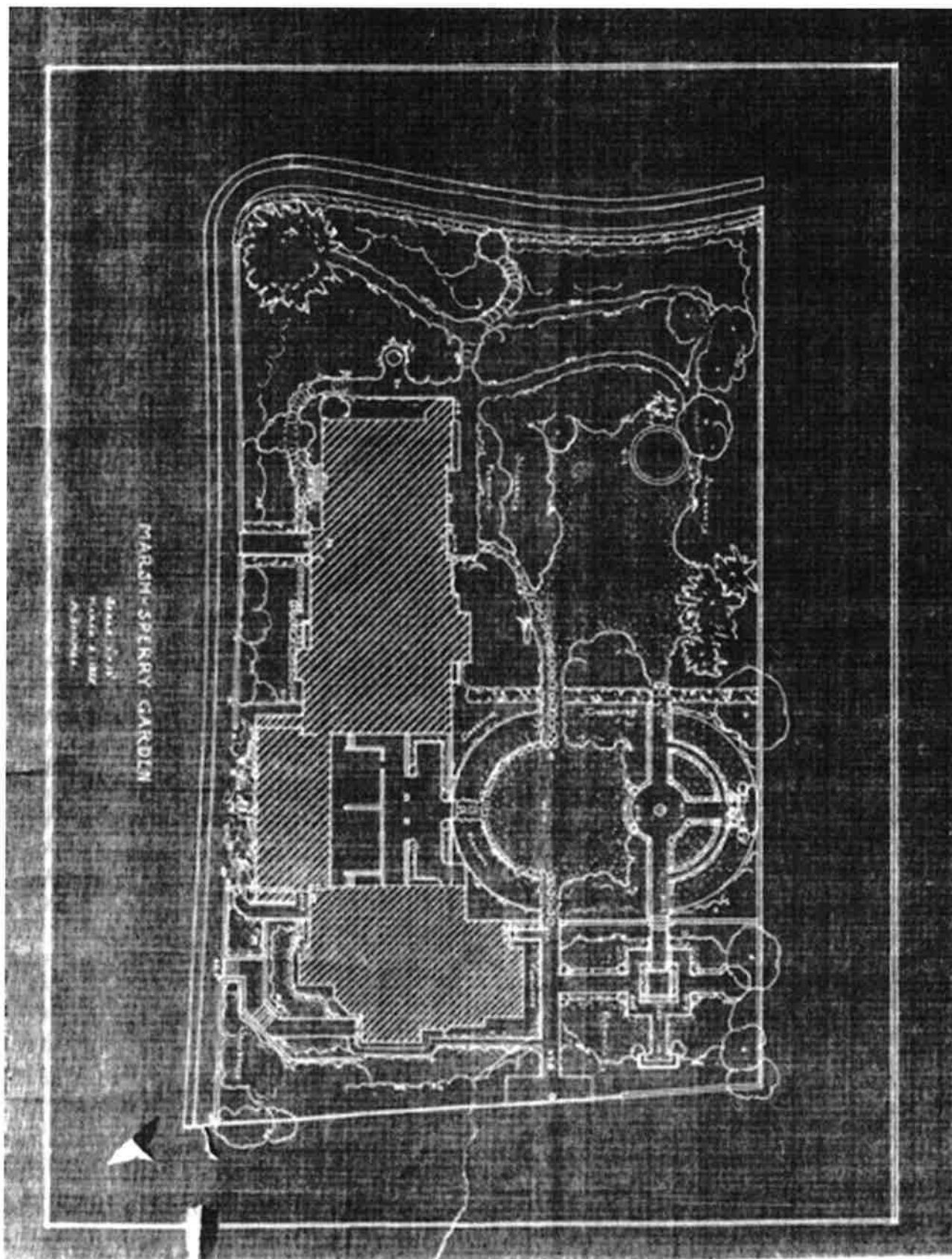


EXHIBIT E

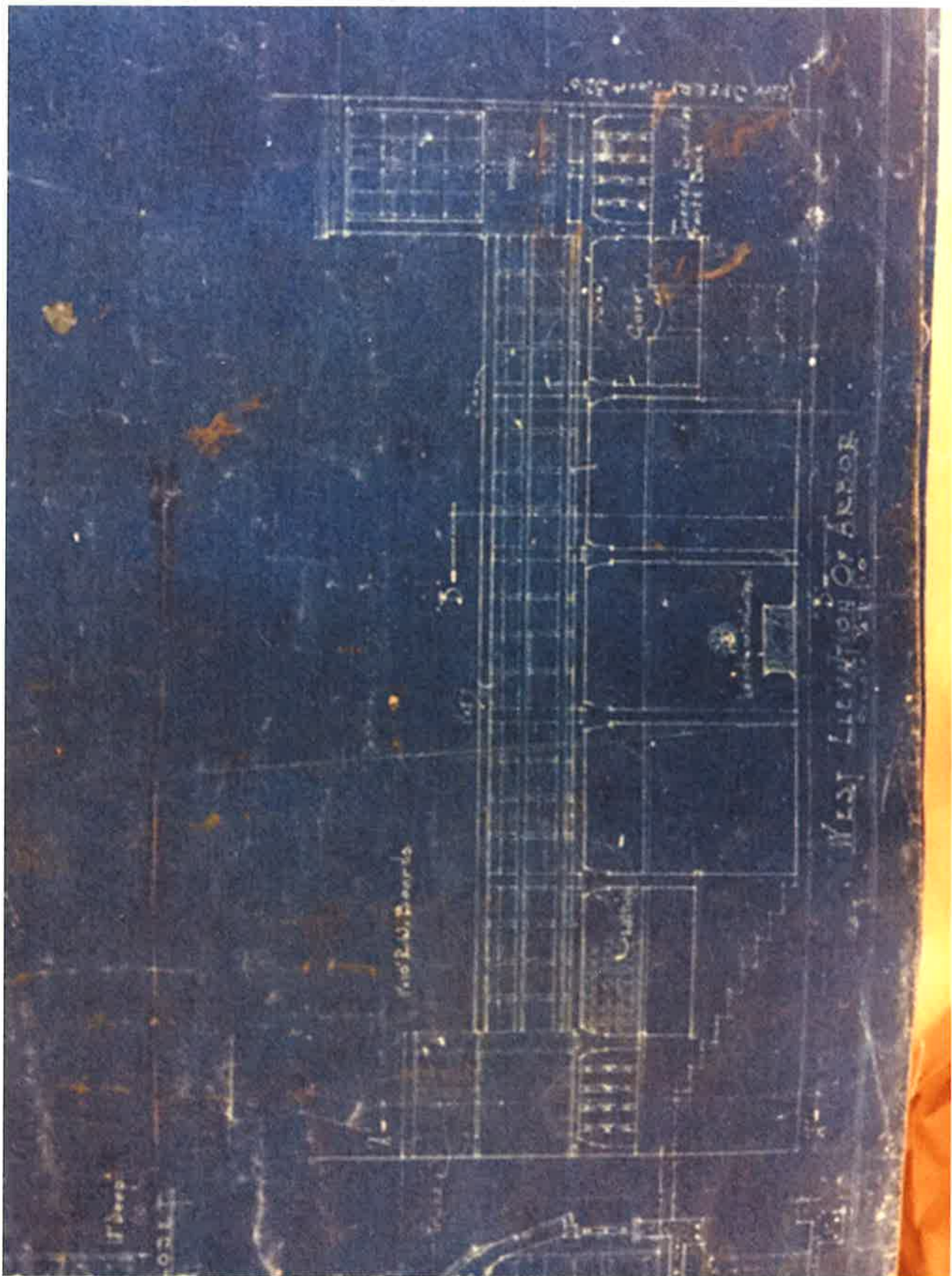


EXHIBIT F

OLD GRANT HOLDS UP DOUBLE TRACK ON 14TH AVENUE
 Zone Law Change Urged to Permit \$100,000 Home
 The Oakland City Council has passed a resolution which would allow the construction of a double track on 14th Avenue, between Broadway and Broadway.

FRANKLIN K. LANE MEMORIAL TO BE DEDICATED AUG. 24
 The memorial to Franklin K. Lane, which was dedicated on August 24, will be held at the Oakland Public Library.

62 DEPARTMENTS MAKE THE OVERHEAD SMALL
 Divines a million dollars among a million more and some of them would get very much. The same principle places upon each of the thousands of articles in the 62 departments at Capwells a much lower overhead than you might imagine.

WALK-OVER'S SALE
 OF Women's Footwear
 Hundreds of Pairs of Distinctive Footwear Further Reduced

Capwells
 1212 Broadway, Oakland, Cal.

going away EAST this Summer
 Another Walk-Over Hosiery Special

Zone Law Change Urged to Permit \$100,000 Home

BERKELEY, Aug. 6. — In order to permit the erection of a \$100,000 residence on a half block of land at Vine street and Hawthorne Terrace, James C. Sperry, wealthy Berkeleyan, has petitioned the city council to reclassify his property. Sperry seeks to build two residences, one for himself and the other for relatives, as well as two garages with living quarters for chauffeur and servants. Under Berkeley's zoning law he would be barred from connecting the buildings as planned if the property remained in Class One. He asks for a change to Class Three. The city planning commission recommended to the council that the change in classification be made and next Tuesday was set as the time for hearing.

EXHIBIT G

BERKELEY URBAN CONSERVATION SURVEY

BERKELEY ARCHITECTURAL HERITAGE ASSOCIATION, P.O. Box 7066, Berkeley 94707

Page 134 of 150

Master Plan Area 7
Attachment 1 of 3

BOOK/BLOCK/PARCEL No. 059 2249 02800 FORM No. 24650

ADDRESS 1450 HAWTHORNE TERRACE

ORIGINAL OWNER _____

ARCHITECT HENRY H. GUTTERSON

CONTRACTOR _____

DATE 1924-25 SOURCE _____



NUMBER OF STRUCTURES ON LOT _____ Fill out additional questionnaire for each structure and attach. ZONING _____

More than one box may be checked:

- | ORIGINAL USE | PRESENT USE |
|---|--------------------------|
| <input type="checkbox"/> Vacant | <input type="checkbox"/> |
| <input type="checkbox"/> Single family | <input type="checkbox"/> |
| <input type="checkbox"/> Duplex-fourplex | <input type="checkbox"/> |
| <input type="checkbox"/> Apartments | <input type="checkbox"/> |
| <input type="checkbox"/> Commercial | <input type="checkbox"/> |
| <input type="checkbox"/> Industrial | <input type="checkbox"/> |
| <input type="checkbox"/> Public/institutional | <input type="checkbox"/> |
| <input type="checkbox"/> Other: _____ | <input type="checkbox"/> |

PHYSICAL DESCRIPTION

Number of stories: _____

TYPE OF ROOF

- | | |
|---------------------------------------|-----------------|
| <input type="checkbox"/> Gable | Material: _____ |
| <input type="checkbox"/> Hip | |
| <input type="checkbox"/> Flat | |
| <input type="checkbox"/> Gambrel | |
| <input type="checkbox"/> Shed | |
| <input type="checkbox"/> Other: _____ | |

BUILDING MATERIALS

- Board siding
- Wood shingle
- Stucco
- Brick
- Concrete
- Stone
- Asbestos siding
- Other: _____

Building colors _____

CONDITION OF STRUCTURE

- Excellent
- Good
- Poor

- | | STYLE | |
|---|--|-----------|
| VICTORIAN | <input type="checkbox"/> Pioneer | 1850-1900 |
| | <input type="checkbox"/> False-Front | |
| | <input type="checkbox"/> Gothic Revival | |
| | <input type="checkbox"/> Italianate | |
| | <input type="checkbox"/> Stick-Eastlake | |
| | <input type="checkbox"/> Queen Anne | |
| <input type="checkbox"/> Other: _____ | | |
| TURN-OF-THE-CENTURY | <input type="checkbox"/> Transitional | 1890-1910 |
| | <input type="checkbox"/> Colonial Revival | |
| | <input type="checkbox"/> High-Peaked Gable | |
| | <input type="checkbox"/> Other: _____ | |
| EARLY XX CENTURY | <input type="checkbox"/> 1st Bay Tradition | 1900-1945 |
| | <input type="checkbox"/> Brown Shingle | |
| | <input type="checkbox"/> Craftsman | |
| | <input type="checkbox"/> Mission Revival | |
| | <input type="checkbox"/> Prairie Plain | |
| | <input type="checkbox"/> California Bungalow | |
| | <input type="checkbox"/> Period Revival | |
| <input type="checkbox"/> Specify: _____ | | |
| <input type="checkbox"/> Other: _____ | | |
| COMMERCIAL/INSTITUTIONAL | <input type="checkbox"/> Beaux-Arts | 1900- |
| | <input type="checkbox"/> Classical Downtown | |
| | <input type="checkbox"/> Storefront | |
| | <input type="checkbox"/> Moderne | |
| | <input type="checkbox"/> Manufacturing | |
| | <input type="checkbox"/> Drive-In | |
| | <input type="checkbox"/> Corporate-Public | |
| | <input type="checkbox"/> Brutalism | |
| <input type="checkbox"/> Other: _____ | | |
| MODERN | <input type="checkbox"/> 2nd Bay Tradition | 1930- |
| | <input type="checkbox"/> Suburban | |
| | <input type="checkbox"/> Multi-Unit | |
| | <input type="checkbox"/> 3rd Bay Tradition | |
| <input type="checkbox"/> Other: _____ | | |

1-5 can be further explained on back of questionnaire.

1. ALTERATION
- Little or none
 - Moderate
 - Considerable
 - Restoration

2. SIGNIFICANT FEATURES
- Architectural _____
 - Landscaping _____

3. ARCHITECTURAL IMPORTANCE
- Fine example
 - Architect
 - Curiosity
 - Prior structure
 - Other: _____

4. HISTORICAL IMPORTANCE
- Event
 - Individual
 - Group
 - Commercial
 - Civic activity
 - Other: _____

5. RANGE OF IMPORTANCE
- Neighborhood
 - City
 - State
 - National

- OVERALL IMPORTANCE
- YES
 - Maybe
 - No
 - Talked to resident

Oral History Contact: _____

RECORD ADDITIONAL HISTORICAL AND ARCHITECTURAL INFORMATION ON BACK OR ATTACH SHEET

SURVEYOR _____ DATE _____ /STAFF _____ DATE _____

BERKELEY URBAN CONSERVATION SURVEY

BERKELEY ARCHITECTURAL HERITAGE ASSOCIATION, P.O. Box 7066, Berkeley '94707

Master Plan Area Attachment 1, pt 3

7

BOOK/BLOCK/PARCEL No. 059 2249 02700 FORM No. 24649

ADDRESS 1440 HAWTHORNE TERRACE

ORIGINAL OWNER James C. Sperry

ARCHITECT _____

CONTRACTOR A. Cederborg

DATE 1924 SOURCE permit #17854 21 AUG 1924



NUMBER OF STRUCTURES ON LOT new apartments \$68,107. for each structure and attach.

Fill out additional questionnaire

ZONING _____

More than one box may be checked:

1-5 can be further explained on back of questionnaire.

STYLE

ORIGINAL USE PRESENT USE

- Vacant
- Single family
- Duplex-fourplex
- Apartments
- Commercial
- Industrial
- Public/institutional
- Other: _____

PHYSICAL DESCRIPTION

Number of stories: _____

TYPE OF ROOF

- Gable Material: _____
- Hip
- Flat
- Gambrel
- Shed
- Other: _____

BUILDING MATERIALS

- Board siding
- Wood shingle
- Stucco
- Brick
- Concrete
- Stone
- Asbestos siding
- Other: _____

Building colors _____

CONDITION OF STRUCTURE

- Excellent
- Good
- Poor

- | | | | |
|--------------------------|--------------------------|---------------------|-----------|
| VICTORIAN | <input type="checkbox"/> | Pioneer | 1850-1900 |
| | <input type="checkbox"/> | False-Front | |
| | <input type="checkbox"/> | Gothic Revival | |
| | <input type="checkbox"/> | Italianate | |
| | <input type="checkbox"/> | Stick-Eastlake | |
| TURN-OF-THE-CENTURY | <input type="checkbox"/> | Queen Anne | 1890-1910 |
| | <input type="checkbox"/> | Other: _____ | |
| | <input type="checkbox"/> | Transitional | |
| | <input type="checkbox"/> | Colonial Revival | |
| | <input type="checkbox"/> | High-Peaked Gable | |
| EARLY XX CENTURY | <input type="checkbox"/> | Other: _____ | 1900-1945 |
| | <input type="checkbox"/> | 1st Bay Tradition | |
| | <input type="checkbox"/> | Brown Shingle | |
| | <input type="checkbox"/> | Craftsman | |
| | <input type="checkbox"/> | Mission Revival | |
| COMMERCIAL/INSTITUTIONAL | <input type="checkbox"/> | Prairie Plain | 1900- |
| | <input type="checkbox"/> | California Bungalow | |
| | <input type="checkbox"/> | Period Revival | |
| | <input type="checkbox"/> | Specify: _____ | |
| | <input type="checkbox"/> | Other: _____ | |
| MODERN | <input type="checkbox"/> | Beaux-Arts | 1930- |
| | <input type="checkbox"/> | Classical Downtown | |
| | <input type="checkbox"/> | Storefront | |
| | <input type="checkbox"/> | Moderne | |
| | <input type="checkbox"/> | Manufacturing | |
| | <input type="checkbox"/> | Drive-In | |
| | <input type="checkbox"/> | Corporate-Public | |
| | <input type="checkbox"/> | Brutalism | |
| | <input type="checkbox"/> | Other: _____ | |
| | <input type="checkbox"/> | 2nd Bay Tradition | |
| | <input type="checkbox"/> | Suburban | |
| | <input type="checkbox"/> | Multi-Unit | |
| | <input type="checkbox"/> | 3rd Bay Tradition | |
| | <input type="checkbox"/> | Other: _____ | |

1. ALTERATION

- Little or none
- Moderate
- Considerable
- Restoration

2. SIGNIFICANT FEATURES

- Architectural _____
- Landscaping _____

3. ARCHITECTURAL IMPORTANCE

- Fine example
- Architect
- Curiosity
- Prior structure
- Other: _____

4. HISTORICAL IMPORTANCE

- Event
- Individual
- Group
- Commercial
- Civic activity
- Other: _____

5. RANGE OF IMPORTANCE

- Neighborhood
- City
- State
- National

OVERALL IMPORTANCE

- YES
- Maybe
- No
- Talked to resident

Oral History Contact: _____

RECORD ADDITIONAL HISTORICAL AND ARCHITECTURAL INFORMATION ON BACK OR ATTACH SHEET

- 1927 - Jas. C. (Adelia) - Vice-pres. Magnavox Co. - 2425 Hearst
Jas. O. - student - 2425 Hearst
- 1928 - Jas. C. (Adelia O.) - Pres. Magnavox - 1450 Hawthorne Ter. Attachment 1, pt 3
Jas. O. - student
- 1928 - Mrs. Jas. H. Marsh - 1440 Hawthorne Ter.

PRICE \$ #1440 Hawthorne Terr STREET RENT \$ MO

LOAN PRICE \$ DUE INTEREST %

NO. OF COUS. COMS

NO. OF FEES COMS

NO. OF COUS. COMS

NO. OF FEES COMS

EXCHG. FEE

NO. OF COUS. COMS

NO. OF FEES COMS

TRAFF. FEE

NO. OF COUS. COMS

NO. OF FEES COMS

DATE OWNER ADDRESS PHONE REV. STPS PRICE

JUL 28 1955 D. Sperry to Hugh Russell + Marion Fitzhugh M. Shivers 1500
 DEC 11 1959 B.T. to W. Smith 26 Dec 2nd 4000 4950

PRICE \$ #1450 Hawthorne Terr STREET RENT \$ MO

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EXHIBIT H

Activist Sylvia McLaughlin Cares for Berkeley

Since the Late 1950s, North Berkeley Resident Has Been a Dynamo of Environmental Activism and Concern for the Campus and the Community

By Sunny Merik
PUBLIC AFFAIRS

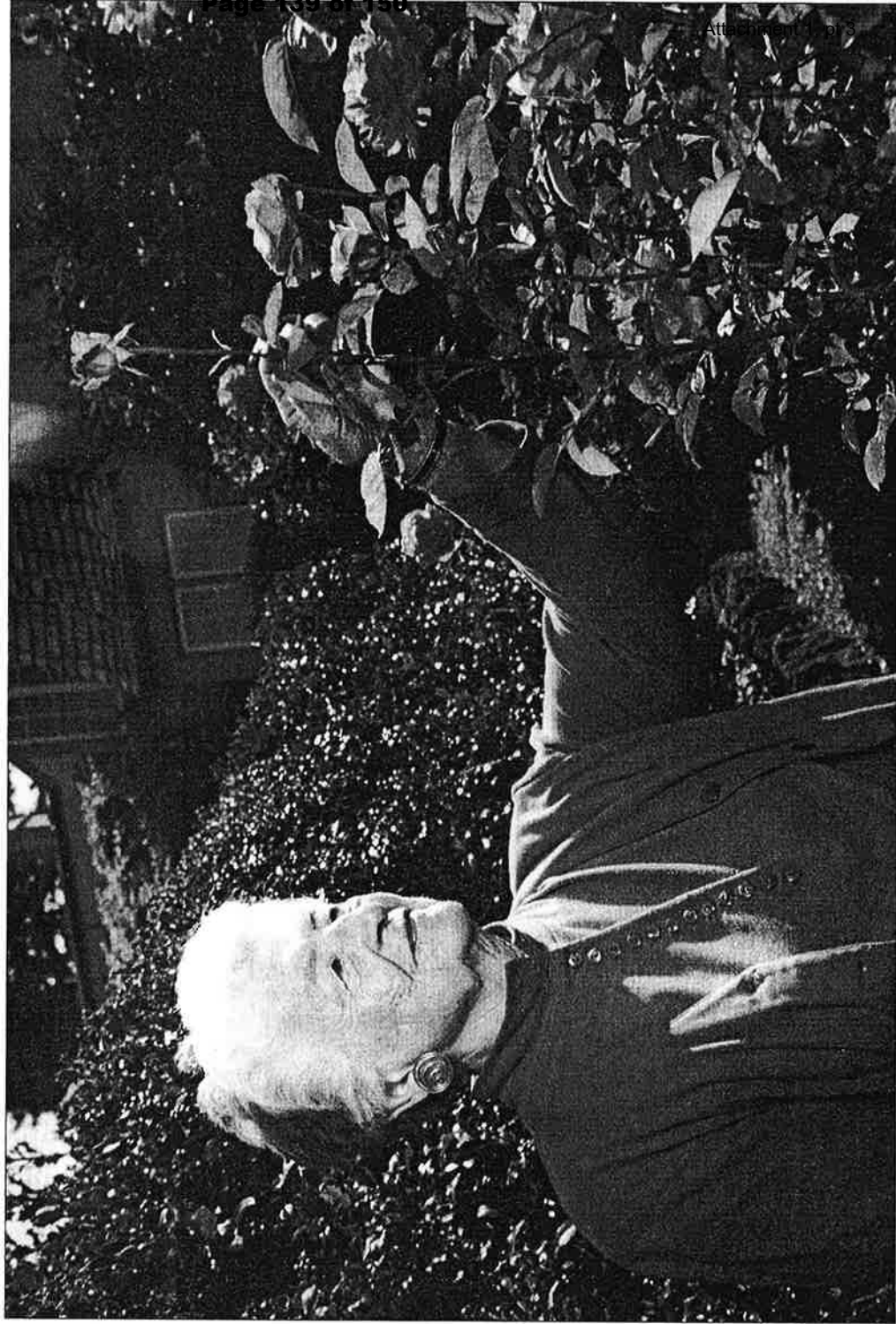
It's 9 a.m. Monday and already Sylvia McLaughlin has been pruning and weeding her garden. She's filled two vases with fresh and fragrant roses, done household chores and started telephoning. By 10, she will have completed a newspaper interview, set up a meeting with a woman seeking data on the environmental movement, and finalized plans to attend a four-day environmental conference in Santa Cruz.

At noon, she'll head for the Berkeley campus, where she lifts weights three times a week in the Cal Fit program. "I do strength training. It's a wonderful program," she says, bright brown eyes framed by a halo of white hair. "The people are all so congenial."

For nearly 40 years McLaughlin has worked with city officials and university administrators to preserve and improve both the natural and architectural beauty of the area. At 81, she is a local institution, her energy and influence legendary.

A Colorado girl who in the late '40s married UC Berkeley geology professor Donald McLaughlin, Sylvia found herself appointed to numerous university and civic committees once her husband, formerly Dean of the College of Engineering, was appointed a UC Regent. The committees led to new friends, new concerns, and the discovery that environmental activism suited her energy and interests.

Sylvia points out that in the late '50s and early '60s, 40 garbage dumps ringed the Bay. "And at night, many of them were burning," she said.

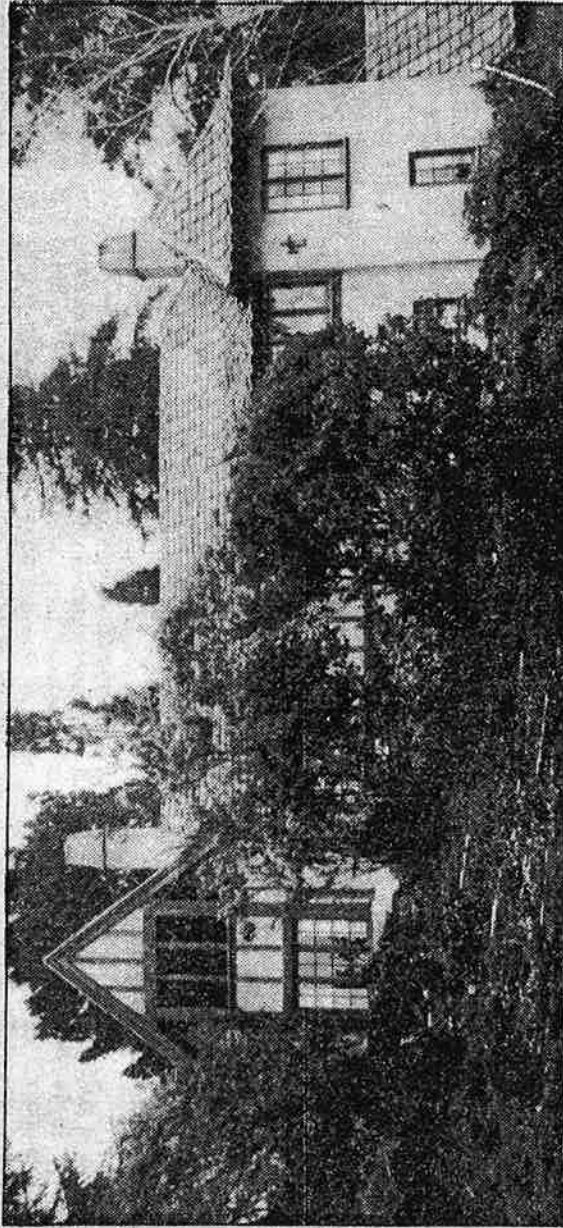


Environmental activist Sylvia McLaughlin takes pride in her North Berkeley rose garden.

tried, working with both the city and the member named Florence Minard worked with model of how careful preservation and

Berkeley's architectural heritage

Architect left mark on neighborhood



A Gutterson-designed house at 1441 Hawthorne Dr. in North Berkeley

BERKELEY — The house pictured here stands on a shrub covered knoll on Hawthorne Terrace, in North Berkeley. It was built for Colonel Edwin Landon in 1924 and designed by architect Henry Hibgy Gutterson.

This was Landon's second home. His original home, endearingly called the "grey gothic" by neighbors, stood to the north. His gardens included an orchard with many different kinds of fruit bearing trees. A long curving driveway, behind the orchard, led to his garage at the back of his house. It is said that he drove an electric car and that he had a turntable in his garage so he wouldn't have to back down the long driveway.

On Sept. 17, 1923, the Berkeley fire destroyed the "grey gothic". Using the orchard as the site of his new home, Colonel Landon hired Henry Gutterson to design this lovely home to take advantage of the garden in the rear. The central section of the house contains the living room with a high "cathedral" ceiling. The south wing

contains the dining room, library and kitchen and the north wing contains the bedrooms. The house has an English country air but a massive tile roof.

Landon sold the piece of property on the north to his friend General McNeill, who also had Gutterson design his home. This home has a steeply sloping slate roof, "English" half-timbering and quatrefoil designs around the entry. It opens onto the garden on the south side.

As history becomes more obscure with the passage of time, this, unfortunately, is all we know of Colonel Landon, General McNeill and the "grey gothic."

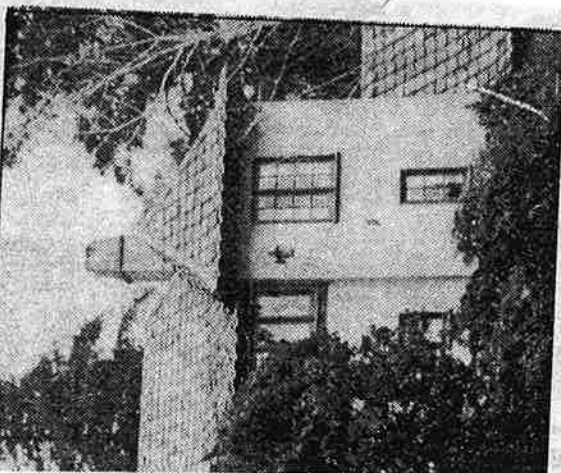
The Berkeley fire destroyed most of the original homes on Hawthorne Terrace and the surrounding areas. A number of well-known Berkeley architects designed the homes that now line the streets in this neighborhood. Henry Hibgy Gutterson was one of these important architects.

Born in 1884, Gutterson graduated from Berkeley High in 1903, entering the University of California that same year. He attended the Ecole des Beaux Arts in Paris from 1906-1909, returning to California in 1910. Before setting up his own practice in San Francisco in 1916, he worked for John Galen Howard on the staff of the Panama Pacific Exposition.

Active in architectural and planning circles throughout his life, Gutterson was co-founder and president of the Berkeley Planning and Housing Association and a member of the Berkeley Planning Commission. He taught briefly at the University of California in 1910-11 and 1920-21. In 1946, he was awarded a citation for his pioneering work on the unification of the profession by

The INDEPENDENT and GAZETTE, Wed., March 21, 1979—3

mark on neighborhood



Dr. in North Berkeley

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Gutterson was one of these important ar-

the American Institute of Architects.

His work in this particular North Berkeley neighbor-
hood, including the two previously mentioned homes are
numerous. Two homes on the West side of Hawthorne
Terrace, directly opposite the one pictured here, were
built for Clarence Sperry and his sister Marion Marsh in
1924. There are three Gutterson houses in a row on Euclid
Avenue just above the houses on Hawthorne. A bit north
off Euclid, along Rose Walk, are the houses and duplexes
for which he is so well known.

On Codornices Road there are four small Gutterson-
designed cottages and a small house at the end of the
road. A favorite Gutterson house on Bayview Place has a
floral design stenciled on the dark redwood siding. This
house was built in 1927.

The work of Henry Gutterson will be the subject of a
lecture to be given on March 29 at 8 p.m. in Jefferson
School Auditorium as a prelude to the Gutterson House
tour on April 1. For further information call 841-3685 or
848-1259.

**Text and photo by Susan Dinkelspiel Stern for the
Berkeley Architectural Heritage Association**

Born in 1884, Gutterson graduated from Berkeley
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Berkeley's architectural heritage

Rose Walk: past success, future decision

BERKELEY — Pictured here are the four duplexes that boarder Rose Walk to the north. In the background, Codornices Road, dotted with cottages, winds behind the reservoir. Codornices Reservoir is seen, in this 1924 drawing, as a hillside lake, before it was covered by asphalt and a few boxed trees in the 1960s. The houses to the south were not yet planned.

Rose Walk was built in 1913 with contributions from the neighborhood and was designed by Bernard Maybeck. The walk linked Euclid Avenue and public transportation with the streets to the east: Tamalpais Avenue, Shasta Avenue and upper Rose Street.

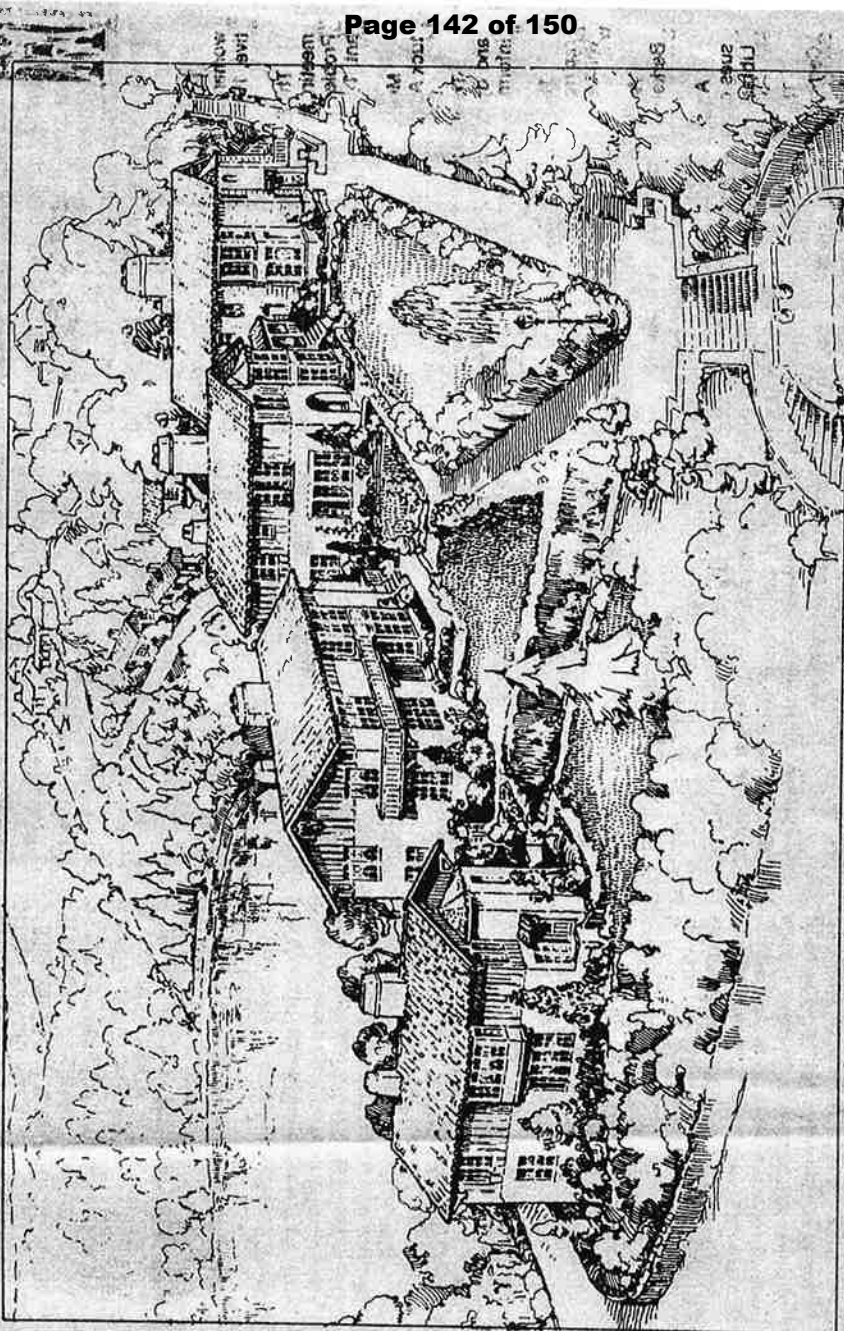
The property adjacent to Rose Walk was part of the Codornices Reservoir watershed. When water was brought into Berkeley from the Sierra, and the watershed was no longer needed the water district sold the property to Dr. and Mrs. Frank Grey.

The Greys hired Henry Highby Gutterson to help them develop their property. The Greys and Gutterson were both members of the First Church of Christ Scientist, which Maybeck had designed in 1910, and Gutterson was also a great friend of Maybeck's.

The Greys built Codornices Road and laid out the lots. They had Gutterson design a small cottage on Codornices Road after the fire in 1923, and as this drawing shows, plan the four duplexes that now line Rose Walk, in 1924.

It is important to understand why this subdivision became such an integral part of the environment in which it was built, because we are faced continually with the problem of wanting to enhance or preserve our environment rather than destroy it. The proposed Claremont Canyon subdivision and the ruling this week that the Neighborhood Preservation Ordinance is illegal makes it imperative that we look at past successes, such as the Rose Walk complex, in order to make decisions for the future.

This development is a success first because of the original owners of the property, the Greys. They had the foresight to hire an architect who was philosophically in tune with Maybeck, Keeler and the goals of the Hillside Club. Secondly, the Greys planned to live on the property; this was going to be their home, too. Thirdly, they did not build all at one time, but as their means permitted. The first cottage was built in 1923 and the last house was not completed until 1935. Lastly, the present owner shares the responsibility of maintaining Rose Walk as



Four duplexes along Rose Walk, built in the 1920s

originally conceived.

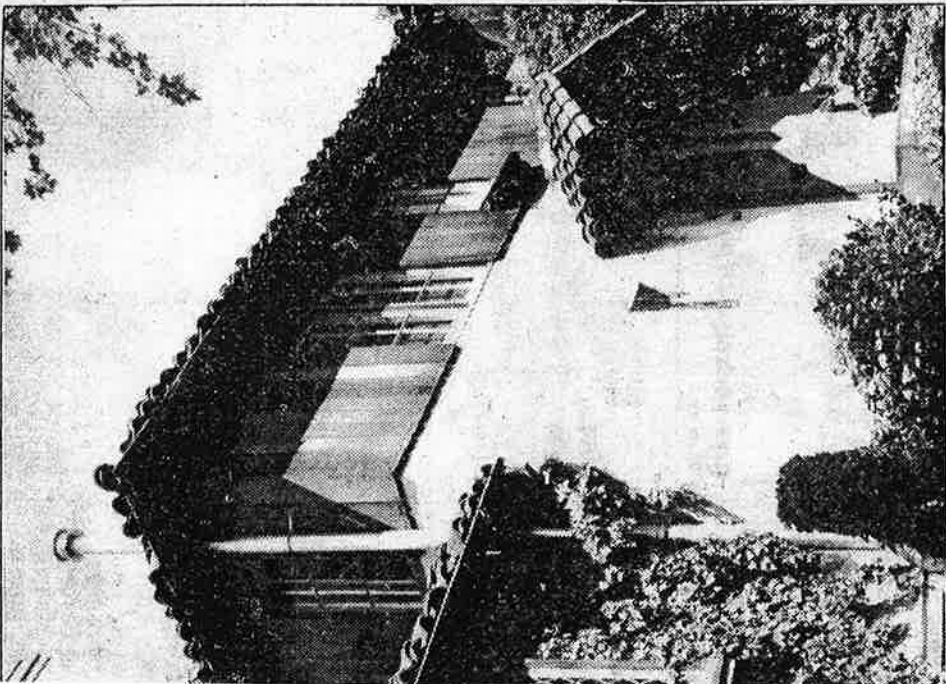
The whole development of the Codornices watershed land is internationally recognized as one of the most artistically and imaginatively planned communities in the country. In 1924 Rose Walk was deemed to the city, and in 1976 it was designated a landmark.

The Berkeley Architectural Heritage Association's annual house tour will feature homes by Henry Highby Gutterson.

Text by Susan Dinkelspiel Stern for the Berkeley Architectural Heritage Association. Drawing courtesy of Dale Tillery.

architectural heritage

hitect fought to keep Hills homes 'charming'



Foulds House, at Cedar and Euclid streets

BERKELEY — The home pictured here was built for the Foulds family in 1928 and stands on the corner of Cedar and Euclid streets. It was designed by architect Henry Higby Gutterson who was a proponent of the philosophical objectives of the Hillside Club. The Berkeley Architectural Heritage Association's annual house tour April 1 will feature homes by Gutterson.

The Hillside Club, founded in 1898, had as its goal the protection of Berkeley Hills from "unsuitable and disfiguring houses". The struggle to arrive at this goal was a continuing battle. Charles Keeler, in the August, 1922 issue of **Building Review**, made a plea for "... employing well trained architects to design the inexpensive and modest homes (which would result in) cities of surprising charm".

Gutterson, as a prolific domestic architect, contributed to the "charm" for which Berkeley's residential neighborhoods are known.

In addition to the Foulds House, Gutterson also designed the cottages on Rose Walk for Mrs. Frank Grey. Both the Foulds House and the Rose Walk cottages feature the same elements of his personal style: lightly stained stucco, prominent wood accents, small paned

windows and heavy tiled roofs. This is a subtle combination of styles with a Mission Revival flavor.

There are several more Gutterson houses in this North Berkeley neighborhood and many in the Claremont area. The home he designed for himself is on Garber Street. They are all unpretentious and Berkeley homes designed to serve retreats from a busy world.

Gutterson lived most of his life in Berkeley, graduating from Berkeley High in 1903 and the University of California. He attended the Ecole des Beaux Arts in Paris and worked for John Galen Howard before setting up his own practice in San Francisco in 1916.

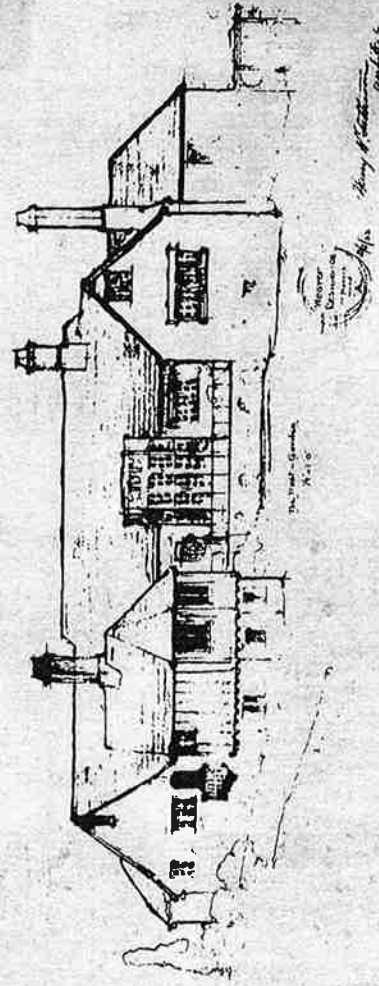
He was active in civic architectural and planning circles and was a member of the Berkeley Planning Commission and co-founder and president of the Berkeley Planning and Housing Association.

Text by Susan Dinkelspiel for the Berkeley Architectural Heritage Association and Photograph by Elizabeth Crews.

THE BERKELEY ARCHITECTURAL HERITAGE ASSOCIATION

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HENRY HIGBY GUTTERSON

Henry Gutterson played a major role in providing homes for the "growing influx of home seekers". A large number of them are in Berkeley where he lived most of his life.

Born in Minnesota in 1884, he graduated from Berkeley High in 1903, then entered the University of California that same year. He attended l'Ecole des Beaux Arts in Paris from 1906-1909, returning to California in 1910 after a brief stay in New York where he worked for Grosvenor Atterbury. Before setting up his own San Francisco practice, in 1916, he worked for John Galen Howard, on the design staff of the Panama Pacific Exposition, and for the City of Oakland architectural staff.

Henry Gutterson continued to be active in architectural and planning circles throughout his life. He was co-founder and president of the Berkeley Planning and Housing Association, a member of the Berkeley Planning Commission, and served on the advisory committee for the San Francisco Civic Center from 1928-1930. Gutterson was president of the Sierra Nevada Chapter of the AIA from 1927-1930 and one of the founders and first directors of the State Association of California Architects and the San Francisco Federal Savings and Loan Association. He taught briefly at the University of California in 1910-11 and 1920-21. In 1946 Gutterson was awarded a citation for his pioneering work on the unification of the profession by the AIA. During his career he was associated with Bernard Maybeck, Willis Polk, Louis Christian Mulgardt, John J. Donavan, Harris Allen, William Corlett Sr. and Ernst Born.

Primarily a prolific domestic architect, Gutterson also designed churches, sanitariums and schools. For the Sierra Club he designed shelter huts that the Club has erected along trails in the high Sierra, and for the Bohemian Club he built recreational facilities near Monte Rio. He designed several Christian Science Churches and Vedanta Society meeting halls. The Salem Lutheran Home in Oakland and the Benevolent Society in San Francisco are two of his larger endeavors.

The largest concentration of Gutterson's residential work can be found in St. Francis Woods in San Francisco. Mason McDuffie, developers of the Claremont and Thousand Oaks neighborhoods in Berkeley a few years earlier, hired John Galen Howard and the Olmstead Bros. of Massachusetts to design a garden community on the west side of Twin Peaks

in 1912. Louis Christian Mulgardt designed the model home and Henry Gutterson became supervising architect in 1916, a post he held until his death in 1954. He designed over 30 homes in the Woods; one of them is the prize-winning House of Hart Weaver.

His first homes in Berkeley date from 1914, a brown shingle on Berryman and a stucco and wood chalet on Tunnel Road, built for Charles Mallory Dutton. There are several Guttersons in the area north of Cedar Street built after the fire in 1923, and many homes in the Claremont and Thousand Oaks areas.

One of Gutterson's Berkeley masterpieces is the Romanesque 2nd Church of Christ Science on Spruce Street built in 1926. The materials, simple and direct, are unpainted concrete and plaster, tile roofs and natural wood trim around leaded windows. These create a gracious and restrained building with a subtle elegance. Scaled to fit in a two and three story residential neighborhood, the horizontal wings of the building, which contain offices and the Sunday School, disguise the great height of the Church.

Although Gutterson adeptly designed in several of the prevailing popular styles of his time, including the English half-timbered and the English cottage, the Italian villa, the Swiss chalet and the mission revival, his strongest statements are of a more individualistic nature and yet combine elements present in all these styles. The row of four houses on upper Garber Street, which includes his own house at 2922 Garber, are a fine example of his personal style. Each home has its own character, but they share the "Gutterson" look of being partially stucco with strong wood accents and classical revival detailing.

Perhaps the Rose Walk cottages are the landmark of Gutterson's career, as they are also a landmark of Berkeley. With these cottages he augments his personal style by using heavily tiled roofs and strong English chimneys. Built over a long period of time for Mrs. Frank Grey, and carefully designed for the ultimate in privacy, these cottages are an example of excellence in planning.

Like Julia Morgan and others of his generation, Henry Gutterson made little attempt to create new architectural images. His broad popularity arose from his concern for pleasing his clients and his genuine sensitivity to their needs. His work always maintained a classical control over proportion and massing. The gentle nature of his buildings, which are subdued, quiet, and unassuming, has been his legacy. Gutterson's homes today blend into the gardens that surround them. Often hidden amongst now mature trees and shrubs, they are the homes that one passes with the feeling that they are retreats from the otherwise hectic world.

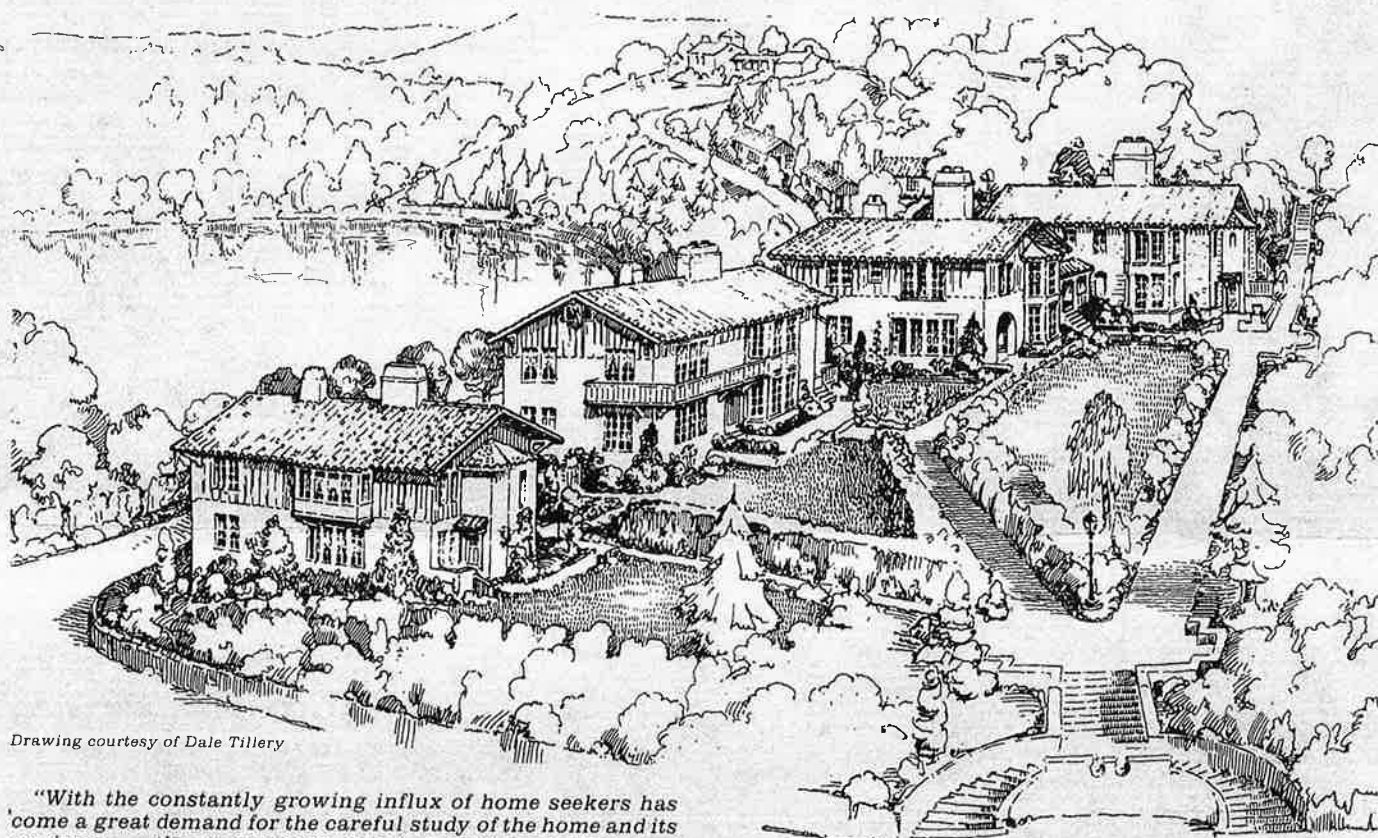
—Susan Dinkelspiel Stern

HENRY HIGBY GUTTERSON

Residential Work in Berkeley

Sunday, April 1st from 1:00 to 5:00 pm

Donation - \$6.50 per person



Drawing courtesy of Dale Tillery

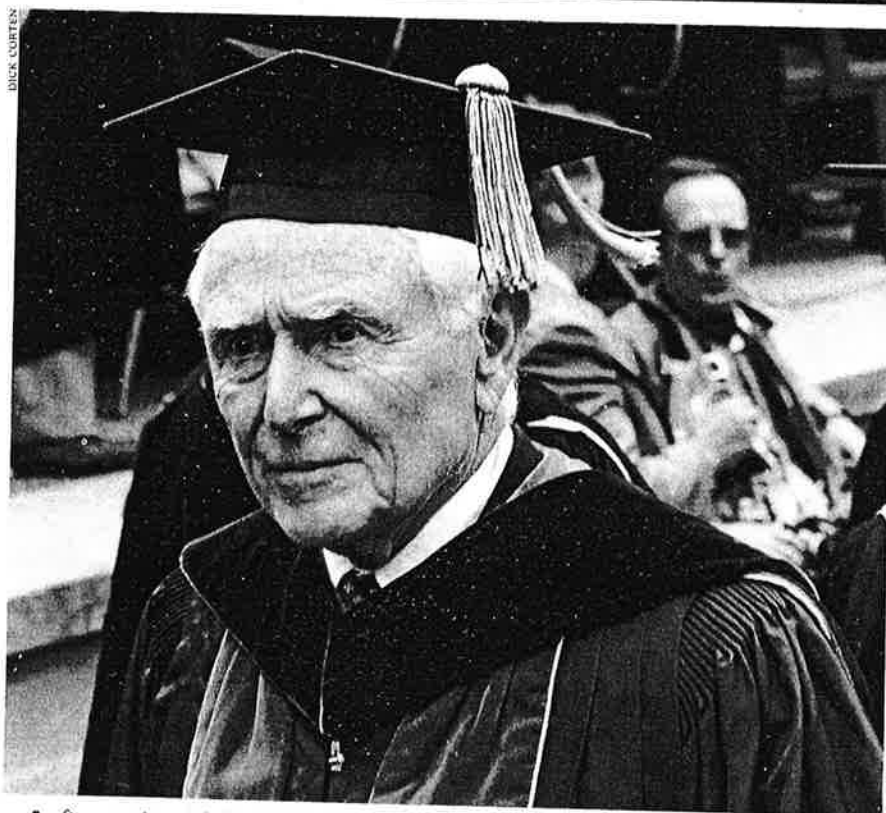
"With the constantly growing influx of home seekers has come a great demand for the careful study of the home and its environs . . . the great spaces of sea, mountains, valleys and deserts have all contributed to a freedom from the restricting conventionalities of the older communities and helped toward a spontaneity and individuality of expression that is most delightfully refreshing." Henry Higby Gutterson

THE BUILDING REVIEW, Aug. 1921

An illustrated lecture will be given by Susan Dinkelspiel Stern at Jefferson School Auditorium on Thursday, March 29th, at 8:00 pm. Admission is \$1.50 per person at the door or \$1.00 if purchased with your ticket.

Tickets are limited. Please make reservations before March 23rd by mailing form below with check made payable to B.A.H.A. and a stamped, self-addressed envelope.

For information, call 841-3685 or 848-1259



After meeting with Donald H. McLaughlin, a University official recalled, "you always left a believer—if not in his point of view, at least in Donald McLaughlin." A man whose twinkling eyes and ramrod-straight bearing commanded both affection and respect, McLaughlin died at his home in Berkeley on the last day of 1984—93 years after his birth in San Francisco and following a rich and rewarding series of careers that found him at home not only in the classrooms of Harvard and Berkeley but also in the shafts of gold mines and in the corridors of power of several major corporations.

McLaughlin was a runner-up for the University Medal when he graduated from the Berkeley campus in 1914. Following the advice of family friend Phoebe Apperson Hearst, he did graduate work at Harvard, earning the master's in 1915 and the doctorate in 1917. After serving in the Army until 1919, he became chief geologist for the Cerro de Pasco Copper Corporation and remained with that South

American company until 1925.

McLaughlin then returned to Harvard as its youngest professor and later was chairman of the Department of Geology and Geography and of the Division of Geological Sciences. In 1941, Robert Gordon Sproul persuaded him to return to Berkeley, where he served one year as professor of mining engineering and as dean of the College of Mining; in 1942-43, he was the first dean of the College of Engineering at Berkeley.

In addition to his academic duties from 1926 to 1941, McLaughlin was a consulting geologist for Homestake Mining Company, the country's largest gold mining concern. Colleagues at Homestake have credited him with "rediscovering" the company's mine in South Dakota after mining engineers had declared the facility panned out. (About three million ounces of gold were extracted after McLaughlin's rediscovery.)

He was elected a director of Homestake in 1943 and subsequently served as the com-

pany's president, chief executive officer, and chairman of the board. From 1970 until his retirement in 1981 he was honorary chairman of the board and chairman of the executive committee.

The largest gold find of the 20th century in California—a 1980 discovery by Homestake at the juncture of Napa, Lake, and Yolo counties—was named the McLaughlin Deposit in his honor. The open-pit mine is expected to produce its first gold this spring and is estimated to contain some three million ounces.

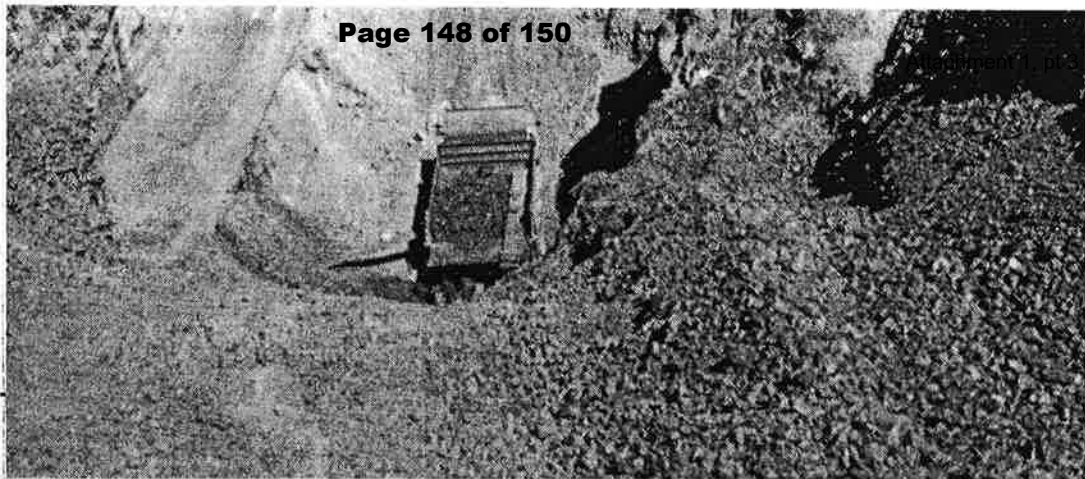
McLaughlin's association with the University included his membership on the Board of Regents from 1951 to 1967 (he was chairman of the board from 1958 to 1960). His tenure reached from the Loyalty Oath controversy to the Free Speech Movement, both of which he opposed. In the 1960s, when he was in his 70s, McLaughlin sought out and listened patiently to student protesters—and then forcefully presented an opposite point of view.

In addition to his many civic, social, and educational activities, McLaughlin held 10 corporate directorships and served on the U.S. Atomic Energy Commission and on the U.S. Geological Survey. His many awards from the University include Centennial Year Honors from both the Berkeley and the Santa Cruz campuses (in 1968) and his selection as the Alumni Association's Alumnus of the Year for 1977.

McLaughlin's critical view of campus architecture since John Galen Howard was legendary. He once observed: "Since I wasn't an architect, I couldn't speak with any authority. All I could do was to say harsh things. I think my worst crack was that I thought the campus rule was, 'A building doesn't have to be cheap, it simply must look cheap!'"

One building on campus he smiled upon was the old Engineering Building, which in 1966 was renamed in his honor. And, in December 1984, just before his death, Professor Emeritus McLaughlin was informed by Dean Karl Pister of the College of Engineering that the Donald H. McLaughlin Chair in Mineral Engineering would be established in the College. Homestake Mining pledged initial funds of \$150,000 to secure the honor, and has since announced plans to match 50 percent of the next \$100,000 raised for the chair.

Donald McLaughlin is survived by his second wife, Sylvia, of Berkeley; by four children, Donald H. Jr., of Cape Cod; Charles C. of Washington, D.C.; and Jean Shaterian and George C., of Berkeley; and by six grandchildren and three great-grandchildren.



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recently, the Pine Creek mine of the U. S. Vanadium Company is one of the three top tungsten producers in the United States, mining and concentrating a large tonnage, daily, of low-grade disseminated scheelite ore. Their ore also yields an important amount of molybdenum in the form of the sulphide, molybdenite, which is associated with the scheelite. An interesting development in the tungsten picture was the discovery that the mineral scheelite fluoresces under the influence of ultra-violet light. Portable lamps were manufactured which greatly facilitated prospecting, and resulted in the locating and opening up of numerous deposits in several districts in California as well as in

DONALD H. McLaughlin '14, Dean of the College of Engineering at California until 1943, is a mining geologist and engineer with experience garnered in South America and the United States, plus a professorship at Harvard. He is at present first Vice-President of the Cerro de Pasco Copper Corporation and President of the Homestake Mining Company, South Dakota.



others of the western states. Many of these, of course, were small, but the sum-total has been an important addition to the war supply.

Over the years, California has had several periods of activity in mining both chromite and manganese. The former began in 1869-1874 in Del Norte and San Luis Obispo counties, and the latter at the Ladd Mine, San Joaquin County, as early as 1867. Because of the high cost of transporting these ores to the consumers in the principal steel-mill districts of the eastern United States, it has not been profitable to mine our Californian chrome and manganese ores in competition with low-cost foreign importations except under the high prices of war time due to curtailment of imports as a result of ocean shipping difficulties. However, there is a possibility for the future utilization of these and other ferro-alloying metals in California along with our iron ore resources in the electric furnace with power from hydroelectric plants.

The particular stumbling block which has prevented the production of blast-furnace pig-iron commercially in California has been the lack of a nearby cheap supply of coking coal. Some twenty-seven years ago in one of the annual statistical reports of the State Mining Bureau, the present writer stated that he looked for the utilization of California's iron ores in the day, if and when, hydroelectric power could be obtained at a low figure comparable to that prevalent in Norway where such ores are smelted in the electric furnace. It looks as if that day is at hand, or

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May 1945 Cal Monthly

Friday, November 23, 2007

IN THE NEWS

APPEAL-DEMOCRAT A7

Skunk spray? It's one option with tree-sitters

By Michelle Lechin
Local Staff Writer

BERKELEY - University of California officials have won the legal right to oust a band of tree-sitters who've taken up residence in an oak grove standing in the way of a planned sports center.

But how do you uproot a tree-sitter in Berkeley, one of America's most politically correct cities?

"Extremely difficult," acknowledges campus spokesman Dan Mogulof.

As the protest nears its one-year anniversary, plenty of people have suggestions: Fire hoses, skunk spray and tranquilizer darts are among the thorny ideas Internet posters have planted.

So far, the university has moved cautiously.

The university wants to remove dozens of the picturesque trees, called evergreen coast live oaks, to build a \$125 million training facility for its Golden Bears athletic teams.

There have been scuffles between police and tree-sitters; and campus officials have put up chain-link fences around the grove. University lawyers have told a judge they are considering pruning lower branches - to make it harder to ferry supplies up to the protesters.

Both sides say they don't want a treetop confrontation.

"It's not an easy thing to do, to climb up into a tree, first of all," said Doug Buckwald, member of a group that supports tree-sitters but doesn't join them. "If you're climbing up into a tree to try to wrestle with somebody and drag them down, you are taking on a high level of risk."

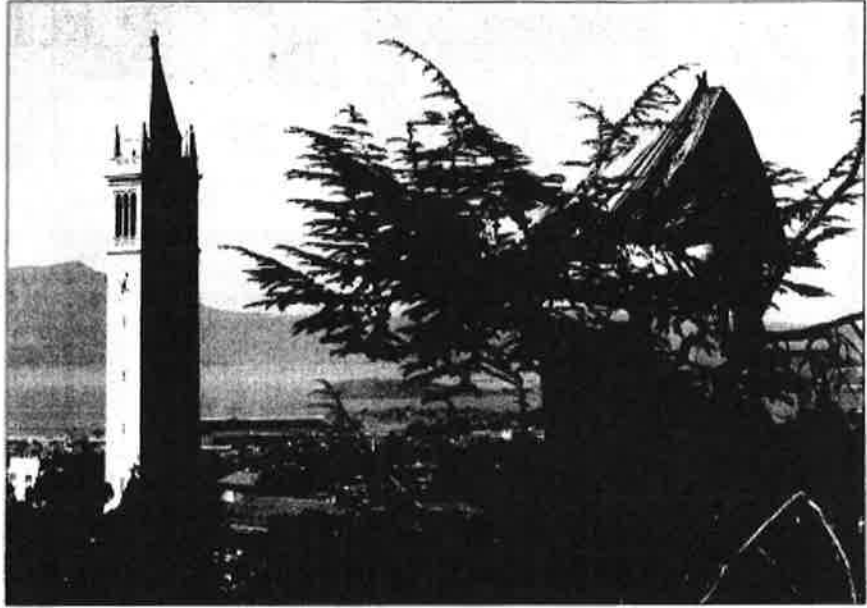
A judge ruled last month that school officials would be within their rights to oust the protesters. Mogulof declined to comment on what tactics campus police might use but said they are "not currently contemplating a forcible removal."

"Any decisions we make are going to be guided by an overriding desire to minimize the chance of harm coming to our officers or the people in the trees," Mogulof said.

The protest began last Dec. 2. It's unclear exactly how many tree-sitters there are, or whether they are students or outsiders. Many rotate in and out at night and wear masks, and they usually give false names.

Although some just spend a few hours in a tree to show solidarity, others seem to hang out for days or weeks, helped by supporters who hoist food, water and reading materials to them in buckets and haul out trash, excrement and other waste.

Notable milestones have included an appearance by conservationist Sylvia McLaughlin,



A tree house inhabited by protesters is seen near Berkeley's Sather Tower, left. In October, Berkeley officials won the legal right to oust a

band of tree-sitters who've taken up residence in an oak grove standing in the way of a new sports center. But the tree-sitters won't budge.

91, who briefly sat on a tree platform in January. There have been two nude photo shoots, and two sitters have fallen, breaking bones.

The next big development in the case could be a ruling, expected soon, on lawsuits filed by the City of Berkeley and others

challenging the building plans. They argue the athletic center would be environmentally and seismically unsound, which campus officials deny.

The judge hearing those lawsuits previously issued an injunction banning construction while the case is pending.

LOOK FOR WHEELER AUTO CENTER'S

HOLIDAY SALES EVENT

Insert in TODAY'S Appeal-Democrat

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Office of the City Manager

INFORMATION CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Timothy Burroughs, Director, Planning and Development

Subject: LPO NOD: 2018-36 University Avenue/#LMSAP2019-0002 for the UC Theater Building

INTRODUCTION

The attached Landmarks Preservation Commission Notice of Decision (NOD) is presented to the Mayor and City Council pursuant to Berkeley Municipal Code/Landmarks Preservation Ordinance (BMC/LPO) Section 3.24.240.A, which requires that “a copy of the Notice of Decision shall be filed with the City Clerk, and the City Clerk shall present said copy to the City Council at its next regular meeting.”

CURRENT SITUATION AND ITS EFFECTS

The Landmark Preservation Commission (LPC/Commission) has approved a Structural Alteration Permit (SAP) for the subject City Landmark property. This action is subject to an appeal period which began on October 15, 2019.

BACKGROUND

BMC/LPO Section 3.24.300 allows City Council to review any action of the Landmarks Preservation Commission in granting or denying a Structural Alteration Permit. In order for Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Council member must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by October 30, 2019. Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must rule on the application within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

ENVIRONMENTAL SUSTAINABILITY

Landmark designation provides opportunities for the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

POSSIBLE FUTURE ACTION

The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There are no known fiscal impacts associated with this action.

CONTACT PERSON

Timothy Burroughs, Director, Planning and Development Department, 510-981-7401
Fatema Crane, Landmarks Preservation Commission Secretary, Planning and Development, 510-981-7413
Alison Lenci, Assistant Planner, Planning and Development, 510-981-7544

Attachments:

1: Notice of Decision – #LMSAP2019-0002 for 2018-36 University Avenue



L A N D M A R K S
P R E S E R V A T I O N
C O M M I S S I O N
NOTICE OF DECISION

DATE OF BOARD DECISION: August 1, 2019
DATE NOTICE MAILED: October 15, 2019
APPEAL PERIOD EXPIRATION: October 30, 2019
EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): October 31, 2019¹

2018-36 University Avenue – The UC Theater Building

Structural Alteration Permit #LMSAP2019-0005 to complete storefront improvements and establish a signage program on a portion of a City Landmark building.

The Landmarks Preservation Commission of the City of Berkeley, **APPROVED** the Structural Alteration Permit for this project.

APPLICANT: Brad Gunkel, Gunkel Architecture, 2295 San Pablo Avenue, Berkeley, CA 94702

ZONING DISTRICT: C-DMU Core, Downtown Mixed-Use Core

ENVIRONMENTAL REVIEW STATUS: Categorically exempt from environmental review pursuant to Section 15331 of the CEQA Guidelines for Historical Resource Rehabilitation.

The Application materials for this project are available online at:
<http://www.cityofberkeley.info/zoningapplications>

FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE

¹ Pursuant to BMC Section 1.04.070, if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day. Pursuant to BMC Section 3.24.190, the City Council may “certify” any decision of the LPC for review, within fifteen days from the mailing of the NOD. Such certification shall stay all proceedings in the same manner as the filing of a notice of appeal.

LANDMARKS PRESERVATION COMMISSION
NOTICE OF DECISION
LMSAP2019-0002
2018-36 University Avenue
October 11, 2019
Page 2 of 4

COMMISSION VOTE: 6-0-1-1

YES: ABRANCHAS DA SILVA, ALLEN, CHAGNON, CRANDALL, FINACOM, OLSON

NO: None

ABSTAIN: O'MALLEY

ABSENT: SCHWARTZ

TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):

To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1st Floor, Berkeley. The City Clerk's telephone number is (510) 981-6900.
 - a. Pursuant to BMC Section 3.24.300.A, an appeal may be taken to the City Council by the application of the owners of the property or their authorized agents, or by the application of at least fifty residents of the City aggrieved or affected by any determination of the commission made under the provisions of Chapter 3.24.
2. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
 - a. The basic fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less. Signatures collected per the filing requirement in BMC Section 3.24.300.A may be counted towards qualifying for the reduced fee, so long as the signers are qualified. The individual filing the appeal must clearly denote which signatures are to be counted towards qualifying for the reduced fee.
 - b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
 - c. The fee for all appeals by Applicants is \$2500.
3. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).

If no appeal is received, the landmark designation will be final on the first business day following expiration of the appeal period.

LANDMARKS PRESERVATION COMMISSION
NOTICE OF DECISION
LMSAP2019-0002
2018-36 University Avenue
October 11, 2019
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STRUCTURAL ALTERATION PERMIT ISSUANCE:

If no appeal is received, the Structural Alteration permit will be issued on the first business day following expiration of the appeal period, and the project may proceed at that time. Information about the Building Permit process can be found at the following link:

<http://www.ci.berkeley.ca.us/permitservicecenter/>.

NOTICE CONCERNING YOUR LEGAL RIGHTS:

If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must including the following information:
 - A. That this belief is a basis of your appeal.
 - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
 - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been

LANDMARKS PRESERVATION COMMISSION
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October 11, 2019
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taken, both before the City Council and in court.

PUBLIC COMMENT:

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

FURTHER INFORMATION:

Questions about the project should be directed to the project planner, Alison Lenci, at (510) 981-7544 or alenci@cityofberkeley.info. All project application materials, including full-size plans, may be viewed at the Permit Service Center (Zoning counter), 1947 Center Street, between 8 a.m. and 4 p.m., Monday through Friday.

ATTACHMENTS:

1. Approved Findings and Conditions
2. Project Plans, received **JULY 17, 2019**
3. Colors and Materials, received **FEBRUARY 6, 2019**

ATTEST: 
Fatema Crane, Secretary
Landmarks Preservation Commission

cc: City Clerk
Applicant: Brad Gunkel
Gunkel Architecture
2295 Pablo Avenue
Berkeley, CA 94702

Owner: SB Pacific Group, LLC
2295 San Pablo Avenue
Berkeley, CA 94702

ATTACHMENT 1, PART 2

FINDINGS AND CONDITIONS

2018-36 University Avenue – The UC Theater Building

Structural Alteration Permit #LMSAP2019-0002

To complete storefront improvements and establish a signage program on a portion of a City Landmark building.

CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 153331 of the CEQA Guidelines (“Historic Resource Restoration/Rehabilitation”). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource.

SECRETARY OF THE INTERIOR’S STANDARDS FINDINGS

Regarding the Secretary of the Interior’s Standards for Rehabilitation, the Landmarks Preservation Commission of the City of Berkeley makes the following findings:

1. The property was historically a movie theater with a two-part commercial and residential component. The movie theater has since closed and operates as a music venue. Minimal change to the building’s distinctive materials, features, spaces, and spatial relationships of the site are proposed.
2. The proposal to add awnings and establish a signage program for the tenant spaces will not result in removal of distinctive materials or alterations that will significantly change the overall spatial relations that characterize the building (e.g. mass, height).
3. Owing to their contemporary design and selection of materials, the proposed new features, including awnings and signage, will be recognizable as present-day elements of the building and will not be confused as original or historic, nor will they create a false sense of history.
4. The project will remove alterations whose design and materials are not consistent with the original design nor historically significant in their own right. Alterations to the building that will be removed include: covering transoms, applied finishes to exposed

brick and columns; installation of various building signage, light fixtures and electrical boxes and conduit.

5. No such materials, features, finishes or techniques will be affected by this proposal.
6. The project will restore and repair features that have deteriorated or been removed, including repairing the column/spandrel, column base and existing entry way, re-grouting the mortar joint and applying sealer to the brick piers, and restoring the brick material to its original condition by removing applied finishes.
7. If approved, this project will be subject to a condition that ensures only the gentlest measures are employed when chemical treatments are required.
8. Because no excavation will be required for the proposed alteration of this building, any existing archeological resources at this site will be unaffected by this proposal.
9. The proposed exterior alterations will not destroy features and spatial relationships that characterize the subject property, as described previously in the Analysis for SOI Standard 2, above.
10. The new awnings and signage are limited and will not alter the overall form of the building. All other work proposed with this project will restore original historic features which have been removed, altered or deteriorated over time. If the new awnings and signage were removed in the future, the essential form and integrity of the historic property and its environment will be unimpaired.

LANDMARK PRESERVATION ORDINANCE FINDINGS

1. As required by Section 3.24.260 of the Landmarks Preservation Ordinance, the Commission finds that proposed work is appropriate for and consistent with the purposes of the Ordinance, and will preserve and enhance the characteristics and features specified in the designation for this property. Specifically:
 - The proposal maintains the form and scale of the UC Theater building, including the six storefronts, as well as the uses within the building.
 - The proposed work will not adversely affect the exterior architectural features of the Landmark, the special character or historical, architectural or aesthetic interest or value of the Landmark and its site because the project will restore historic, character defining features which have been removed, altered or deteriorated over time, including exposed brickwork, windows, and storefront bay fenestration elements, and the new work (e.g. awnings and signage) on the storefronts will not over-shadow or conflict with the integrity of the historic public façade of the UC Theater building.

STANDARD CONDITIONS

The following conditions, as well as all other applicable provisions of the Landmarks Preservation Ordinance, apply to this Permit:

1. **Conditions Shall be Printed on Plans**

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Permit, under the title 'Structural Alteration Permit Conditions'. *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

2. Plans and Representations Become Conditions

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

3. Subject to All Applicable Laws and Regulations

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

4. Exercise and Lapse of Permits (Section 23B.56.100)

- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- A. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has:
 - (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

5. Indemnification Agreement

The applicant shall hold the City of Berkeley and its officers harmless in the event of any legal action related to the granting of this Permit, shall cooperate with the City in defense of such action, and shall indemnify the City for any award of damages or attorneys fees that may result.

ADDITIONAL CONDITIONS

The following additional conditions are attached to this Permit:

- 6. **Chemical Treatments.** Any chemical treatments needed as construction progresses will be undertaken using the gentlest means possible.
- 7. **Anchors.** Anchors in the historical façade shall be as discreet as possible and patched when signage or awnings are removed.

8. **Unobscured glazing.** At all times, all storefront doors and window glazing shall remain unobscured and shall not contain signage, text, photos, posters or other applications or objects, other than one directional window sign of 8 sq. ft. or less, per storefront, and a numeric street address, which may be installed only as required for public safety.
9. **Clear glass.** All glass is assumed to be clear glass. Any proposed glass that is not clear glass shall be indicated on all drawings, and shall be reviewed for approval by historic preservation staff, prior to approval of any building permit for this project.
10. **Colors.** Prior to staff sign-off of the building permit set of drawings, the applicant shall submit color and materials information for review and approval by historic preservation staff.
11. **Details.** Prior to staff sign-off of the building permit set of drawings, the applicant shall submit window, door, base, and trim details for review and approval by historic preservation staff.
12. **Lighting.** All exterior lighting, including for signage, shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
13. **Signage Program.** Prior to staff sign-off of the building permit set of drawings, the applicant shall submit complete signage details for the awning signage and projecting blade signs, including colors, materials, letter heights, dimensions, placement on building, and installation details. All materials shall be matte unless otherwise noted.
14. **Recessed Storefront Doors.** Plans submitted for building permit shall show that the face of each storefront door shall be recessed a minimum of 12" from the wall plane. Prior to staff sign-off of the building permit set of drawings, the applicant may request a reduction to a recess of no less than 8", provided adequate documentation is provided to show that a recess of 12" would result in fire, life, safety constraints (i.e. issues meeting building code, fire code, structural or ADA requirements).
15. **Storefront Window Pane.** Plans submitted for building permit shall show that the storefront window on the tenant space furthest east, at 2030 University Avenue, shall be a three-pane window.

EXTERIOR ELEVATION RENOVATION

2018-2030 UNIVERSITY AVE.
BERKELEY, CA 94704

SYMBOLS

HEIGHT		DETAIL	
SECTION		GRID LINE	
EXTERIOR ELEVATION		DEMOLITION NOTE	
INTERIOR ELEVATION		IMPROVEMENT NOTE	

ABBREVIATIONS

A.B./ANCHOR BOLT ABV./ABOVE A.C./ASPHALTIC CONCRETE A.C.T./ACOUSTICAL CEILING TILE A/C/AIR CONDITIONING ACOUS./ACOUSTICAL A.D./AREA DRAIN ADMIN./ADMINISTRATION ADJ./ADJUSTABLE A.F.F./ABOVE FINISHED FLOOR AGGR./AGGREGATE AL./ALUMINUM ALT./ALTERNATE A.P./ACCESS PANEL APP./APPLICATION APPROX./APPROXIMATE ARCH./ARCHITECTURAL ASPH./ASPHALT ATTEN./ATTENUATING	DECK./DECKING DEG./DEGREE DEMO./DEMOLITION DEPT./DEPARTMENT DET./DETAIL D.F./DRINKING FOUNTAIN DIA./DIAMETER DIM./DIMENSION DIR./DIRECTION DISP./DISPOSAL DIST./DISTRIBUTION DIV./DIVISION DN./DOWN DR./DOOR D.S./DOWNSPOUT D.S.A./ DIVISION OF STATE ARCHITECT D.S.P./DRY STAND PIPE DWG./DRAWING	F.O.W./FACE OF WALL FPRF./FIREPROOF(ING) FRM./FRAMING F.R.T./FIRE RETARDANT TREATED F.R.P./FIBERGLASS REINFORCED POLYESTER F.S./FLOOR SINK F.S.E./FOOD SERVICE EQUIPMENT FT./FOOT OR FEET FTG./FOOTING FURR./FURRING FUT./FUTURE GA./GAUGE GALV./GALVANIZED G.L.B./GLUE- LAMINATED (WOOD) BEAM GL./GLASS GND./GROUND G.R.G./GLASS REINFORCED GYPSUM G.S.M./GALVANIZED SHEET METAL GYP./GYPSUM G.W.B./GYPSUM WALL BOARD H.B./HOSE BIBB H.C./HOLLOW CORE HDWR./HARDWARE HDWD./HARDWOOD HT./HEIGHT H.M./HOLLOW METAL HORIZ./HORIZONTAL H.P./HIGH POINT HVAC/HEATING, VENTILATING, AIR CONDITIONING I.D./INSIDE DIAMETER IN./INCH INCAND./INCANDESCENT INCR./INCREMENT INFO./INFORMATION INSUL./INSULATION INT./INTERIOR JAN./JANITOR JT./JOIST JT./JOINT KIT./KITCHEN K.P./KICK PL LAB./LABORATORY LAM./LAMINATE LAV./LAVATORY LB./POUND L.F./LINEAR FEET L.H./LEFT HAND LIN./LINEAR LKR./LOCKER	L.L.H./LONG LEG HORIZONTAL L.P./LOW POINT LT./LIGHT LVR./LOUVER MACH./MACHINE MAINT./MAINTENANCE MATL./MATERIAL MAS./MASONRY MAX./MAXIMUM M.B./MARKER BOARD or MACHINE BOLT M.C./MEDICINE CABINET MECH./MECHANICAL MEMB./MEMBRANE MEP/MECHANICAL/ELECTRICAL & PLUMBING MET./METAL MFR./MANUFACTURER MIC/T/MICROWAVE/ TOASTER OVEN MIN./MINIMUM MIR./MIRROR MISC./MISCELLANEOUS MK./MARK M.O./MASONRY OPENING MTD./MOUNTED MTL./METAL MUL./MULLION N./NORTH (N)/NEW N/A./NOT APPLICABLE N.E./NORTHEAST N.I.C./NOT IN CONTRACT NO./NUMBER NOM./NOMINAL N.T.S./NOT TO SCALE N.W./NORTHWEST OBS./OBSCUR O.C./ON CENTER O.D./OUTSIDE DIAMETER or DIMENSION O.F.C./OWNER FURNISHED, CONTRACTOR INSTALLED O.F.D./OVERFLOW DRAIN O.F.S./OVERFLOW SCUPPER O.H./OVER HEAD OPNG./OPENING OPP. HD./ OPPOSITE HAND OZ./OUNCE P.A./PLANTING AREA P.B./PANIC BAR P.C.P./PRECAST CONCRETE PANEL PERIM./PERIMETER PL./PLATE PL. G./PLATE GLASS PLAM./PLASTIC LAMINATE	PLAS./PLASTER PLBG./PLUMBING PLYVD./PLYWOOD PNL./PANEL PR./PAIR PREP./PREPARATION P.S.F./POUNDS PER SQUARE FOOT P.S.I./POUNDS PER SQUARE INCH P.T./PRESSURE TREATED PT./POINT P.T.D./PAPER TOWEL DISPENSER PTN./PARTITION PVC/POLYVINYL CHLORIDE PVMT./PAVEMENT R./RISER OR REFRIGERATOR (R)/REMOVE R.A./RETURN AIR RAD./RADIUS R.B./RUBBER BASE R.C.P./REFLECTED CEILING PLAN R.D./ROOF DRAIN REF./REFERENCE REF/REFRIGERATOR REFR./REFRIGERATION REINF./REINFORCED REQD./REQUIRED REV./REVISION OR REVISED RESIL./RESILIENT R.H./RIGHT HAND RM./ROOM R.O./ROUGH OPENING RWD./REDWOOD R.W.L./RAINWATER LEADER S./SOUTH S.A./SUPPLY AIR S.B./SCOREBOARD O.C./ON CENTER S.C.D./SEE CIVIL DRAWINGS or DIMENSION S.D./STORM DRAIN S.D.S./SEE DOOR SCHEDULE S.E./SOUTHEAST S.E.D./SEE ELECTRICAL DRAWINGS SECT./SECTION S.F./SQUARE FOOT (FEET) S.F.S./SEE (ROOM) FINISH SCHEDULE SHT./SHEET SHTG./SHEATHING SIM./SIMILAR S.L.D./SEE LANDSCAPE DRAWINGS S.M./SHEET METAL SL./SLOPE SMACNA /SHEET METAL AND	AIR CONDITIONING CONTRACTORS NATIONAL ASSOCIATION DRAWINGS S.M.D./SEE MECHANICAL DRAWINGS S.M.S./SHEET METAL SCREW S.N.D./ SANITARY NAPKIN DISPENSER S.N.R./SANITARY NAPKIN RECEPTACLE S.O.G./SLAB ON GRADE S.P.D./SEE PLUMBING DRAWINGS SPEC./SPECIFICATION SPR./SPRINKLERED S.P.S./SEE PARTITION SCHEDULE SQ./SQUARE S.S.D./SEE STRUCTURAL DRAWINGS STD./STANDARD STL./STEEL STR./STRUCTURAL S4S/SURFACE FOUR SIDES S2S/SURFACE TWO SIDES S3S/STAINLESS STEEL SVC./SERVICE STOR./STORAGE SUSP./SUSPENDED S.W./SOUTHWEST S.W.S./SEE WINDOW SCHEDULE T./TREAD T.B./TACKBOARD TECH./TECHNOLOGY TELE./TELEPHONE TEMP./TEMPERED or TEMPERATURE TER./TERRAZZO T & G/TONGUE & GROOVE THK./THICK THRES./THRESHOLD T.O./TOP OF T.O.C./TOP OF CURB or CONCRETE T.O.D./TOP OF DECKING T.O.M./TOP OF MASONRY T.O.P./TOP OF PAVEMENT or PARAPET T.O.S./TOP OF STEEL T.O.W./TOP OF WALL T.S./TUBULAR STEEL T.S.C.D./TOILET SEAT COVER DISPENSER T.T.D./TOILET TISSUE DISPENSER TV/TELEVISION TYP./TYPICAL U.B.C./UNIFORM BUILDING	CODE U.G./UNDERGROUND U.L./UNDERWRITERS LABORATORY UNF./UNFINISHED U.O.N./UNLESS OTHERWISE NOTED UR./URINAL V.C.T./VINYL COMPOSITION TILE VERT./VERTICAL VEST./VESTIBULE V.G.D.F./VERTICAL GRAIN DOUGLAS FIR V.I.F./VERIFY IN FIELD VOL./VOLUME V.T.R./VENT THRU ROOF (S.P.D.) V.W.C./VINYL WALL COVERING W./WEST OR WASHER W./WITH W.C./WATER CLOSET WD/WASHER/DRYER WD./WOOD WDW./WINDOW W.F./WIDE FLANGE WGL/WIRE GLASS W.H./WATER HEATER W.I.C./WOODWORK INSTITUTE OF CALIFORNIA W.O./WHERE OCCURS W/O/WITHOUT W.P./WORKING POINT WSCT./WAINSCOT W.S.P./WET STANDPIPE WT./WEIGHT W.W.F./WELDED WIRE FABRIC & /AND @ /AT /CHANNEL d /PENNY # /POUND OR NUMBER
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PROJECT TEAM

OWNER

SB PACIFIC GROUP, LLC
2295 San Pablo Avenue
Berkeley, CA 94702

ARCHITECT

Gunkel Architecture
2295 San Pablo Avenue
Berkeley, CA. 94702
(510) 984-1112

CODE COMPLIANCE

2016 CALIFORNIA BUILDING CODE (INCORPORATES BY ADOPTION AND REPRINTS THE 2015 INTERNATIONAL BUILDING CODE WITH CALIFORNIA AMENDMENTS. PUBLISHED BY THE INTERNATIONAL CODE COUNCIL, ICC)

2016 CALIFORNIA RESIDENTIAL CODE - APPLIES TO ONE AND TWO FAMILY HOUSES AND TOWNHOMES LESS THAN 3 STORIES IN HEIGHT. (INCORPORATES BY ADOPTION AND REPRINTS THE 2015 INTERNATIONAL RESIDENTIAL CODE)

2016 CALIFORNIA ENERGY CODE - CHECK THE CALIFORNIA ENERGY COMMISSION'S WEBSITE AT [HTTP://WWW.ENERGY.CA.GOV](http://www.energy.ca.gov) FOR A DOWNLOADABLE VERSION. (PUBLISHED BY ICC).

2016 CALIFORNIA ELECTRICAL CODE (INCORPORATES BY ADOPTION AND REPRINTS THE 2014 NATIONAL ELECTRICAL CODE WITH CALIFORNIA AMENDMENTS. PUBLISHED BY THE NATIONAL FIRE PROTECTION AGENCY, NFPA)

2016 CALIFORNIA PLUMBING CODE (INCORPORATES BY ADOPTION AND REPRINTS THE 2015 UNIFORM PLUMBING CODE WITH CALIFORNIA AMENDMENTS. PUBLISHED BY THE INTERNATIONAL ASSOCIATION OF PLUMBING AND MECHANICAL OFFICIALS, IAPMO)

2016 CALIFORNIA MECHANICAL CODE (INCORPORATES BY ADOPTION AND REPRINTS THE 2015 UNIFORM MECHANICAL CODE WITH CALIFORNIA AMENDMENTS. PUBLISHED BY THE INTERNATIONAL ASSOCIATION OF PLUMBING AND MECHANICAL OFFICIALS, IAPMO)

2016 CALIFORNIA FIRE CODE (INCORPORATES BY ADOPTION AND REPRINTS THE 2015 INTERNATIONAL FIRE CODE WITH CALIFORNIA AMENDMENTS. PUBLISHED BY ICC)

2016 CALGREEN CODE - APPLIES TO CERTAIN NEW BUILDINGS ONLY - ALL NEW RESIDENTIAL BUILDINGS 3 STORIES OR LESS AND ALL NEW NON-RESIDENTIAL BUILDINGS. HERS VERIFICATION REQUIRED BY T-24 ENERGY REPORT.

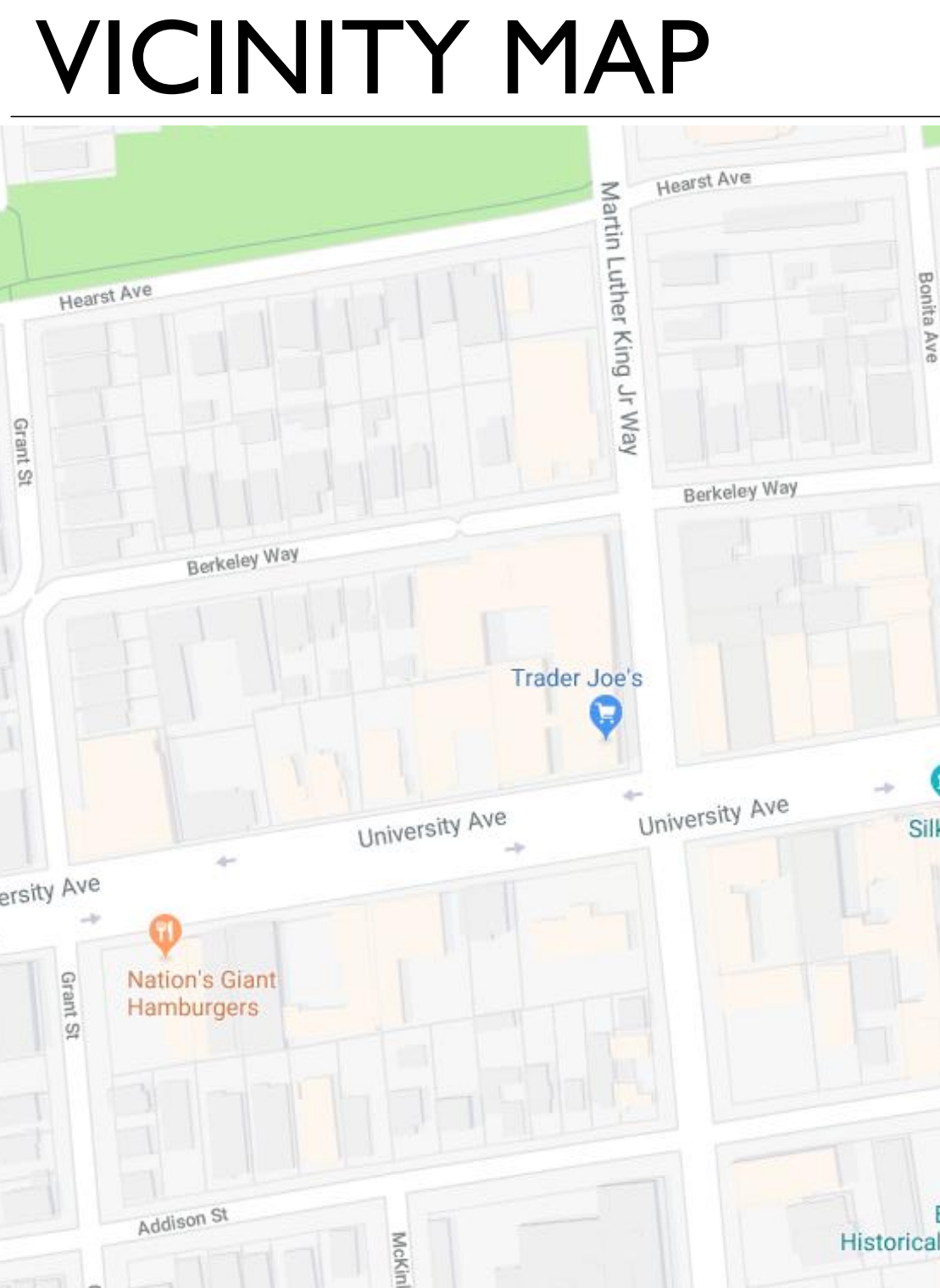
DRAWING NOTES

TYPICAL OWNER/DEVELOPER BUILDING PERMIT SET OF DRAWINGS:

THESE DRAWINGS ARE INTENDED FOR BUILDING PERMIT APPROVAL AND ARE NOT INTENDED TO BE A COMPREHENSIVE SET OF DRAWINGS INDICATING CONSTRUCTION DETAILS, WATER PROOFING, SPECIFIC FINISHES, SPECIFIC CABINETRY, SPECIFIC PLUMBING FIXTURES, LIGHTING FIXTURES, SPECIFIC DOORS, WINDOWS, & HARDWARE, OR M.E.P. & UTILITY ROUTING. OWNER/DEVELOPER IS RESPONSIBLE FOR THE SELECTION OF THESE ITEMS AND CLARIFICATION AND COORDINATION OF THESE WITH THE CONTRACTOR AS PART OF THE BUILDING CONTRACT AND CONSTRUCTION PROCESS. CONTRACTOR IS RESPONSIBLE FOR CONFIRMING CODE COMPLIANCE OF ALL WORK NOT FULLY REFLECTED IN THESE DOCUMENTS AS WELL AS ANY REVISIONS TO THIS SCOPE WITH THE ENTITIES HAVING JURISDICTION. CONTRACTOR IS RESPONSIBLE FOR PROVIDING A COMPLETE, STRUCTURALLY SOUND, FULLY OPERATIONAL, CODE COMPLIANT, FINISHED WORK WITH COMPLETE PROTECTION AGAINST ELEMENTS.

DESCRIPTION OF WORK

RENOVATION OF (E) SINGLE-DWELLING HOUSE. CONVERSION OF GARAGE INTO HABITABLE SPACE, LANDSCAPING & FENCE IMPROVEMENTS.



SHEET INDEX

ARCHITECTURAL	T0.1 TITLE SHEET
	A0.1 SITE PLAN
	A1.0 EXISTING FIRST FLOOR PLAN
	A1.1 FIRST FLOOR IMPROVEMENT PLAN
	A3.0 EXISTING ELEVATIONS
	A3.1 IMPROVEMENT ELEVATIONS
	D1.0 DETAILS

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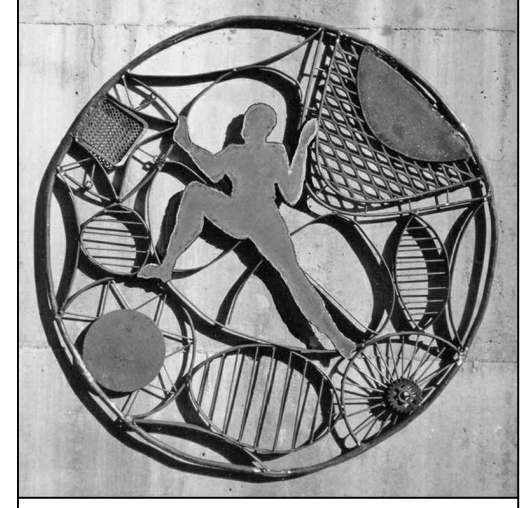
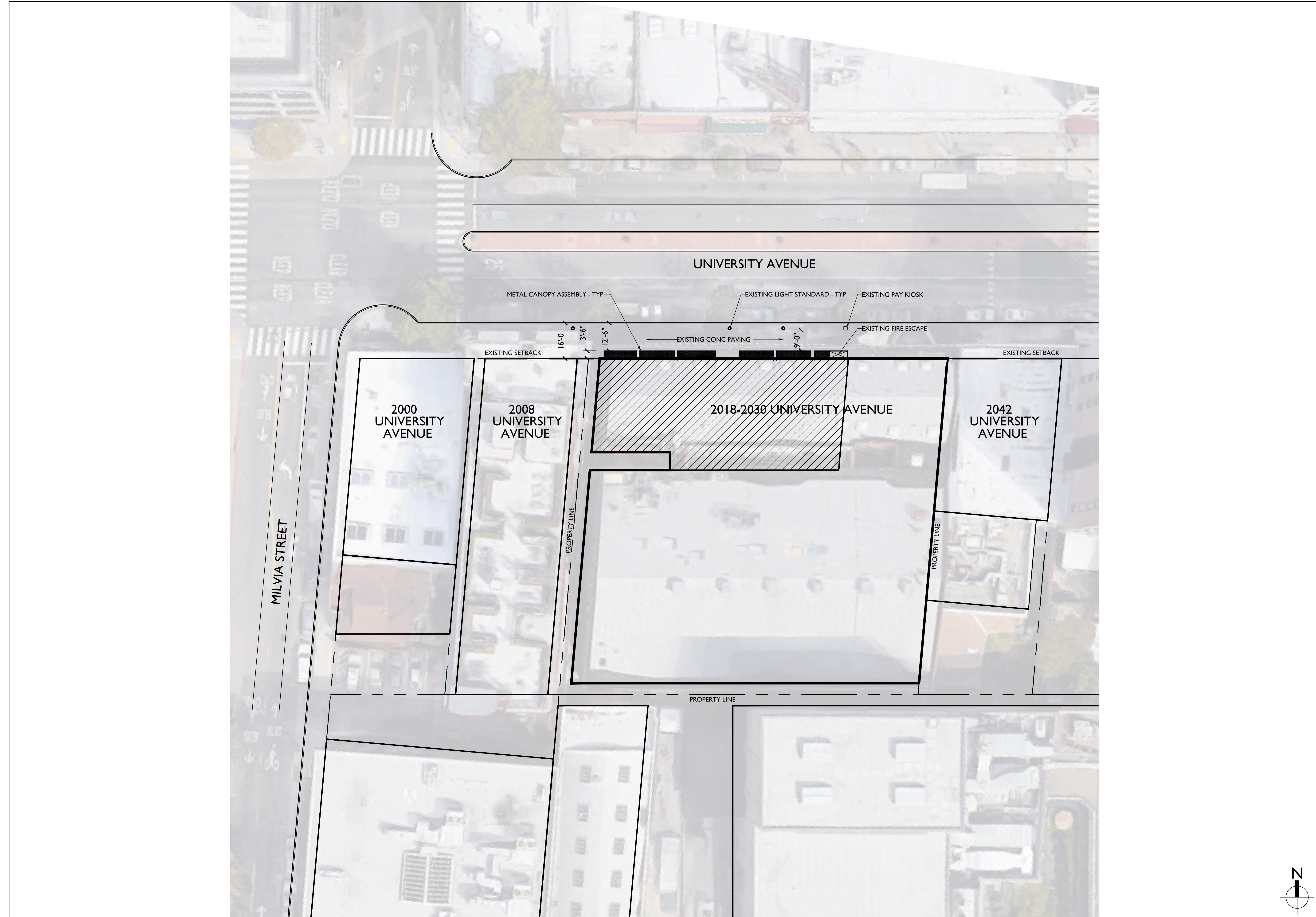
EXTERIOR ELEVATION RENOVATION
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TITLE SHEET

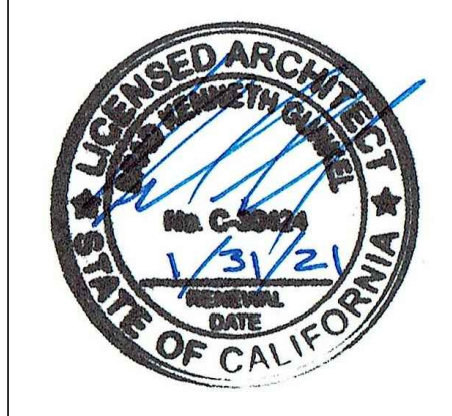
L.P.C. SUBMITTAL

DATE 01/17/2019

T0.1



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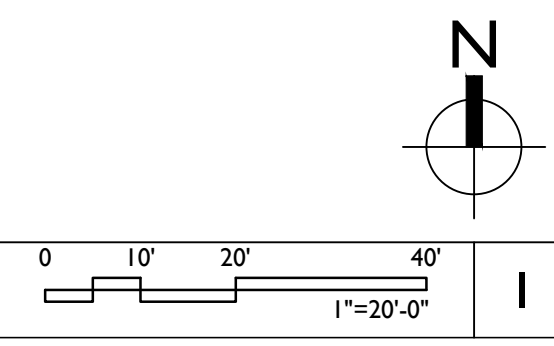
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SITE PLAN

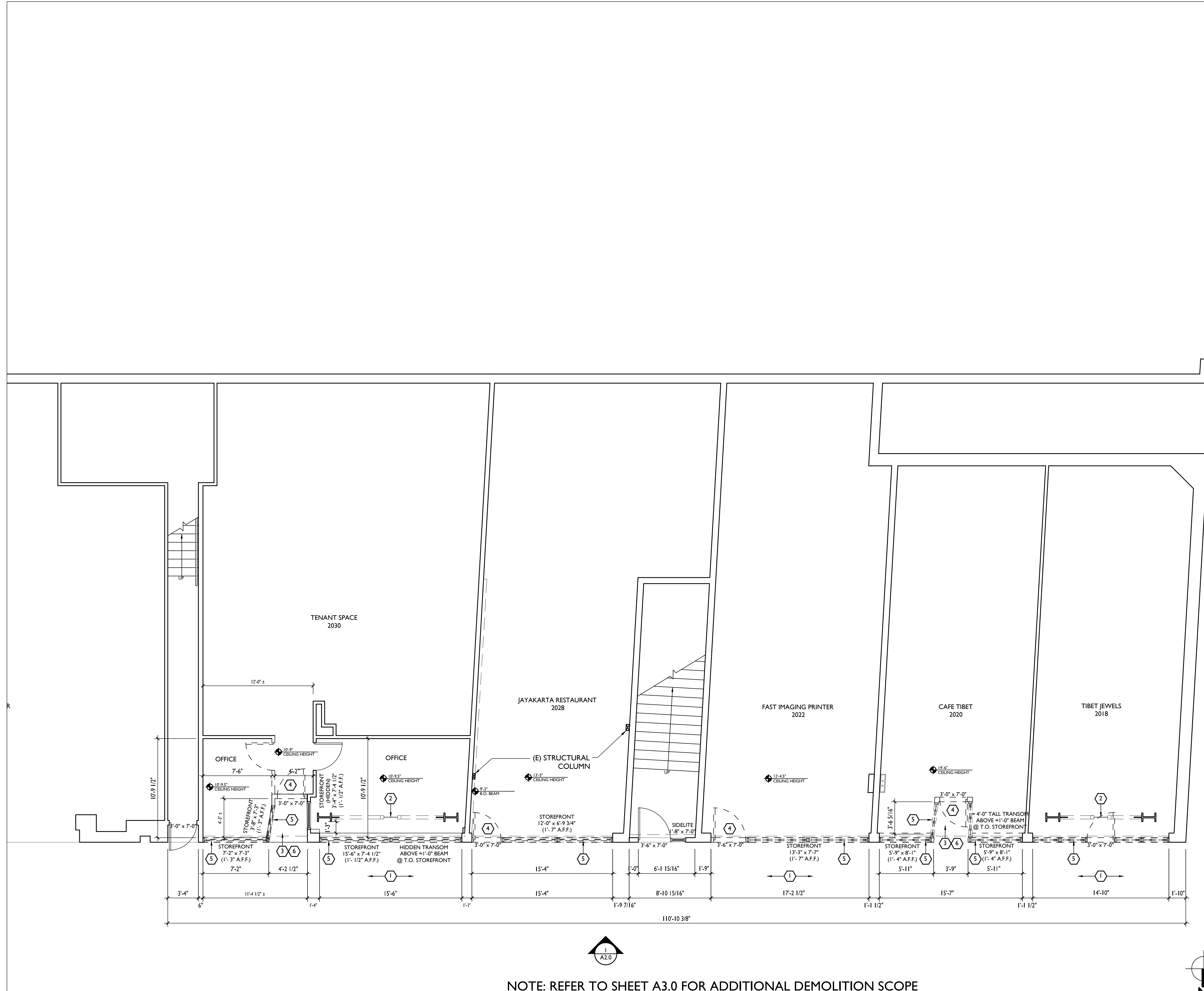
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DATE 01/17/2019

A0.1

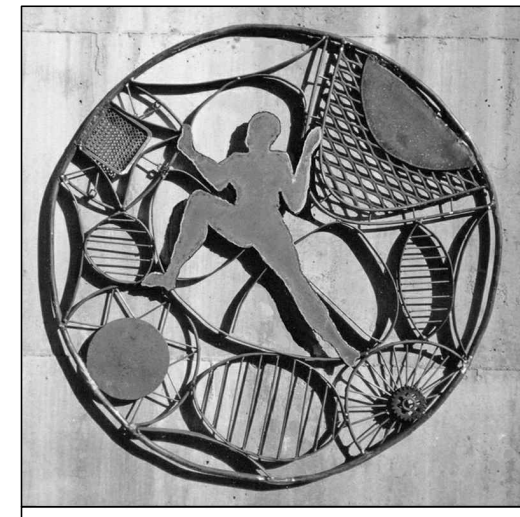


SITE PLAN

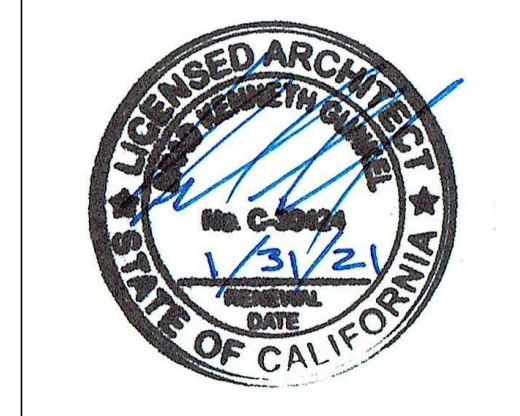


DEMOLITION NOTES

1. (E) CONC PAVING TO REMAIN
2. (E) STRUCTURAL STEEL BRACE FRAME TO REMAIN
3. REMOVE FLOORING MATERIAL WITHIN ALCOVE - PREP TO RECEIVE NEW FINISH
4. REMOVE DOOR ASSEMBLY
5. REMOVE WINDOW ASSEMBLY, INCLUDING WINDOW TREATMENT (BLINDS)
6. REMOVE CEILING ASSEMBLY WITHIN ALCOVE



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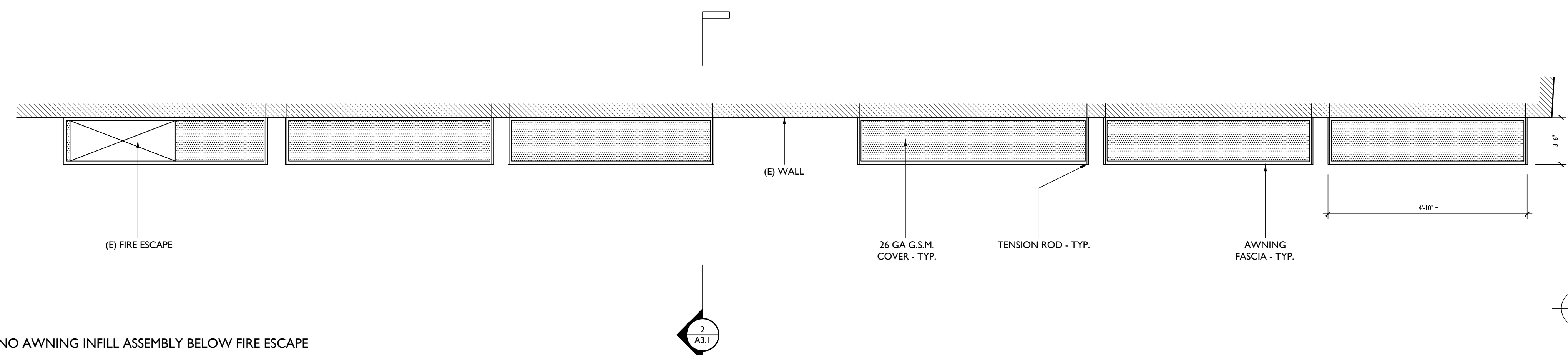
FIRST FLOOR
DEMOLITION
PLAN

L.P.C. SUBMITTAL
DATE 01/17/2019



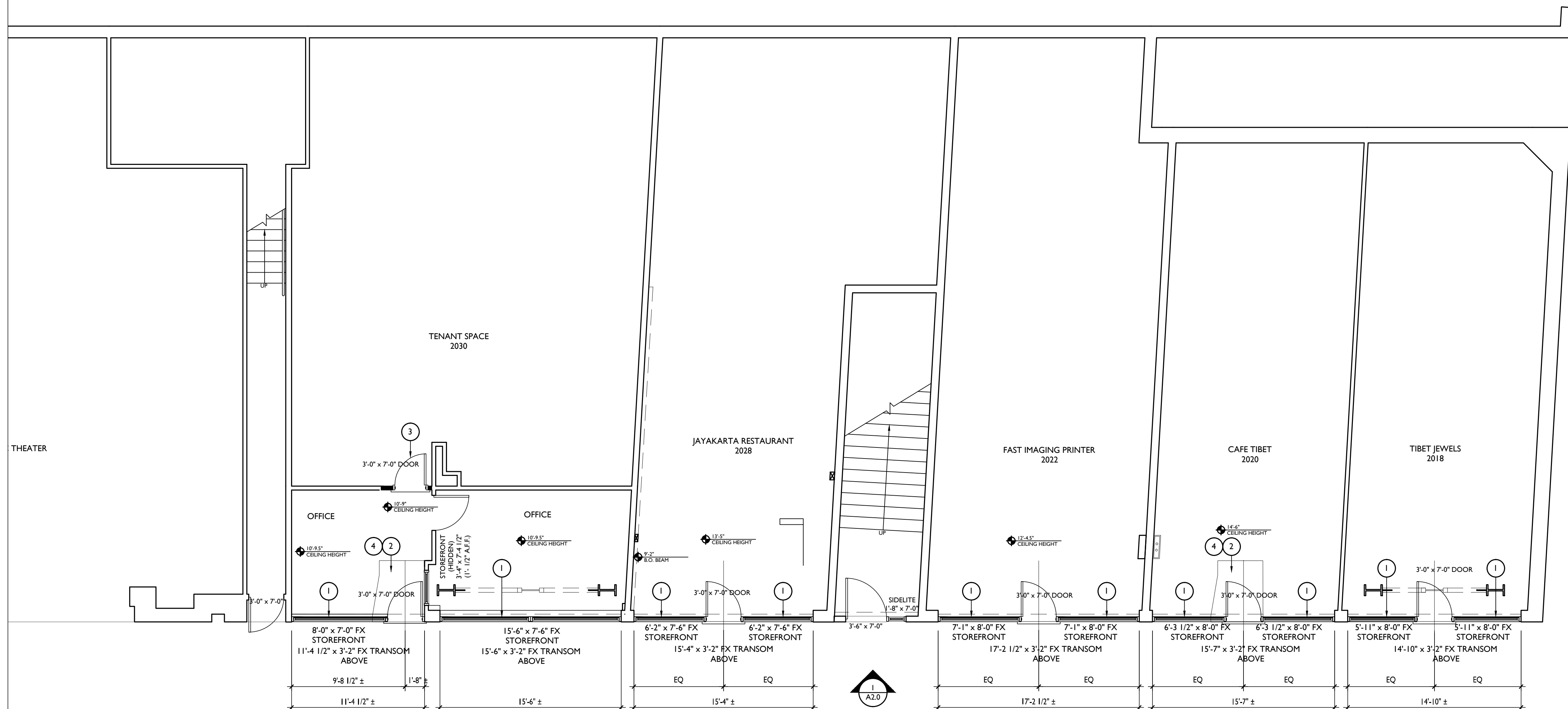
FIRST FLOOR DEMOLITION PLAN

NOTE: REFER TO SHEET A3.0 FOR ADDITIONAL DEMOLITION SCOPE



NOTE: NO AWNING INFILL ASSEMBLY BELOW FIRE ESCAPE

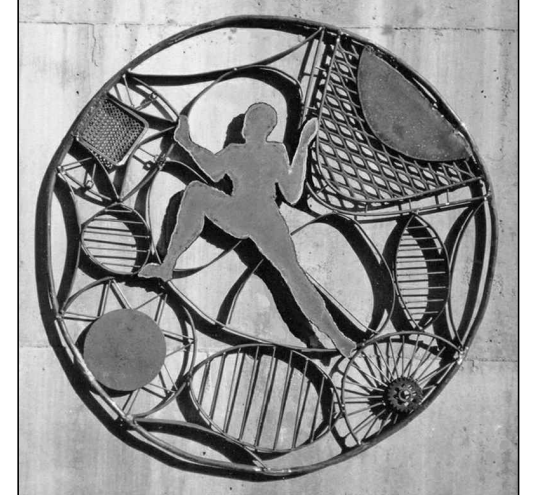
AWNING LEVEL PLAN



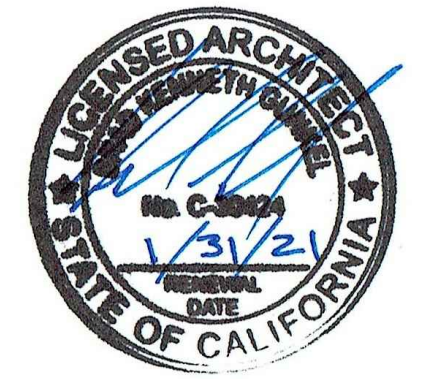
FIRST FLOOR IMPROVEMENT PLAN

CONSTRUCTION NOTES #

1. PONY WALL ASSEMBLY - 2x6 FRAMING @ 16" O.C. WITH 1/2" PLYWOOD EACH SIDE WITH FINISHES PER DETAILS & ELEVATIONS. RECONFIGURE / RE-ESTABLISH ELECTRICAL POWER WITHIN WALL
2. APPLY FLOORING - MATCH (E) ADJACENT
3. INFILL OPENING W/ DOOR AND WALL ASSEMBLIES - MATCH (E)
4. CONSTRUCT CEILING ASSEMBLY (AT NEW ELEVATION/MATCH (E) ADJACENT)



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FIRST FLOOR IMPROVEMENT PLAN

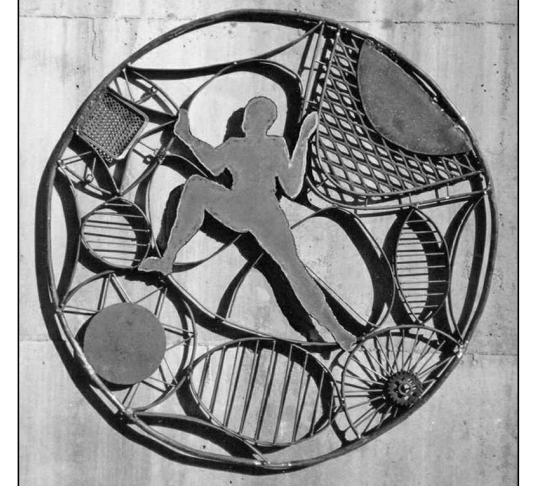
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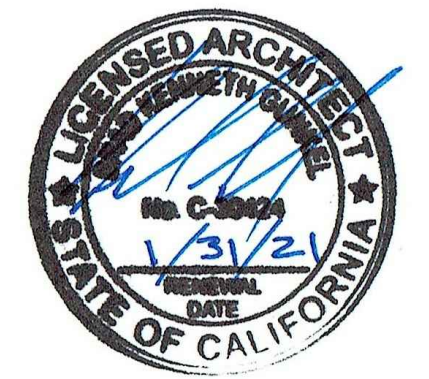
A1.1

DEMOLITION NOTES

1. (E) DOOR ASSEMBLY TO REMAIN
2. REMOVE PAINT FROM (E) BRICK
3. (E) FIRE ESCAPE TO REMAIN
4. (E) WINDOW ASSEMBLY TO REMAIN
5. (E) BRICK TO REMAIN
6. (E) SPANDREL TO REMAIN
7. REMOVE WALL MOUNTED SIGN ASSEMBLY AND ASSOCIATED POWER SUPPLY AND CONDUITS
8. REMOVE ALL ABANDONED ELECTRICAL CONDUITS, BOXES, ETC.
9. REMOVE ELECTRICAL LIGHT FIXTURE AND ASSOCIATED CONDUCTORS, BOXES, CONDUITS, ETC.
10. REMOVE SECURITY CAMERA
11. REMOVE AWNING ASSEMBLY
12. REMOVE BUILDING SIGN
13. REMOVE SECURITY GRILLE
14. REMOVE DOOR ASSEMBLY
15. REMOVE WINDOW ASSEMBLY
16. REMOVE PONY WALL ASSEMBLY
17. REMOVE APPLIED FINISHES TO EXPOSE (E) BRICK
18. REMOVE APPLIED FINISHES TO EXPOSE (E) BRICK
19. REMOVE APPLIED FINISH TO EXPOSE ORIGINAL COLUMN COVERING
20. REMOVE FRAMED SPANDREL INFILL ASSEMBLY
21. REMOVE LOUVER ASSEMBLY
22. (E) LIGHT FIXTURE TO REMAIN
23. REMOVE FAN ASSEMBLY



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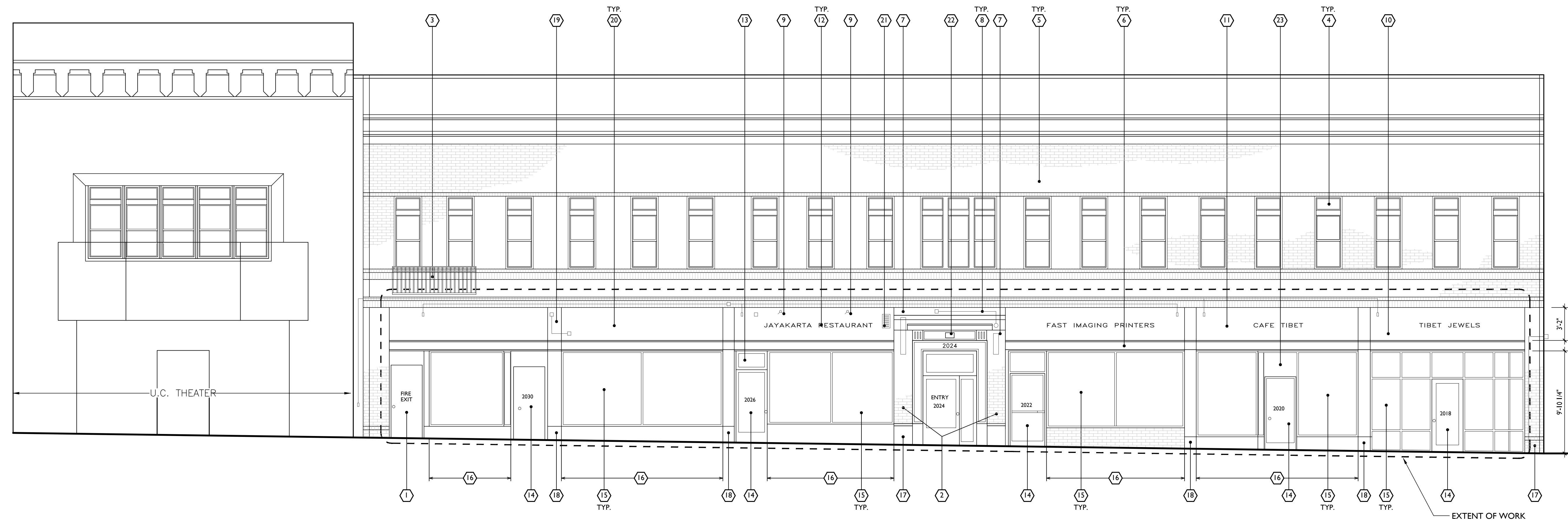
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DEMOLITION ELEVATION

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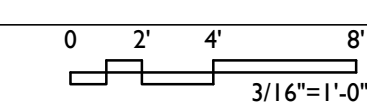
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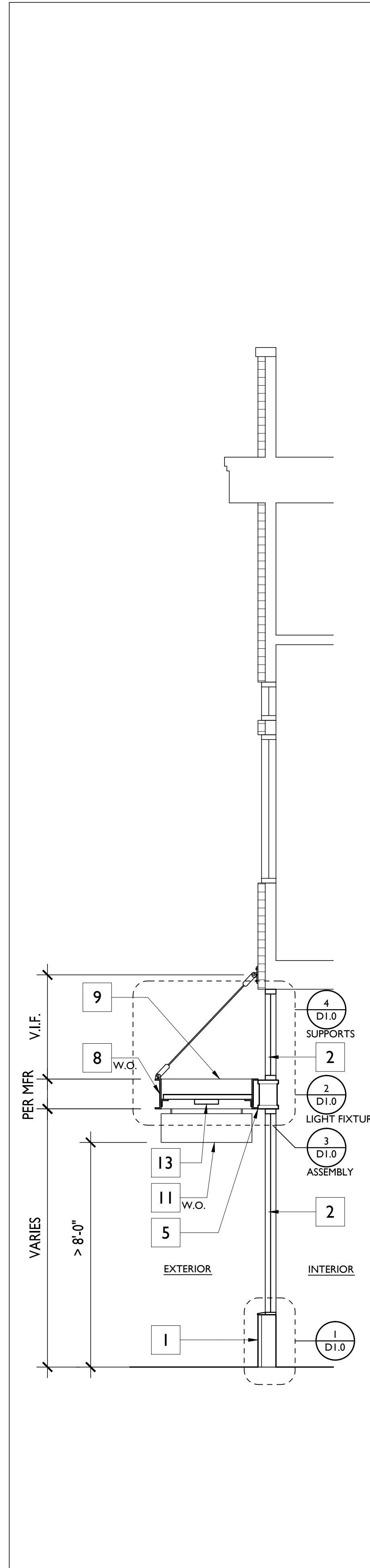
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NOTE: REFER TO SHEET A1.0 FOR ADDITIONAL DEMOLITION SCOPE

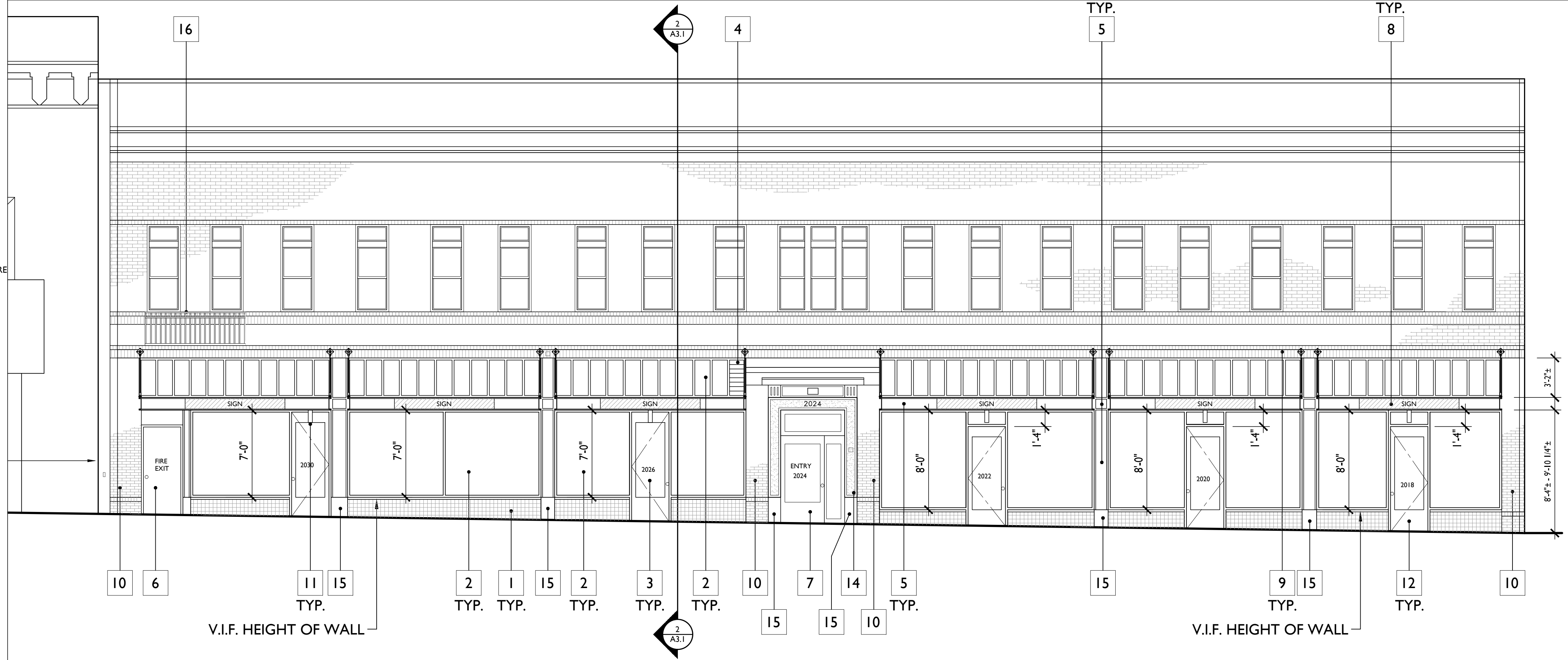
DEMOLITION ELEVATION





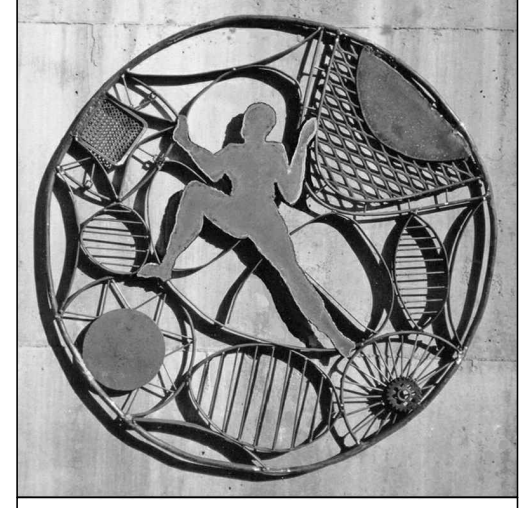
1. APPLY FINISH ASSEMBLY TO PONY WALL: CERAMIC TILE (4 COLOR PATTERN) SET ON THINSET MORTAR OVER CEMENTITIOUS BACKER BOARD
2. INSTALL ALUMINUM STOREFRONT WINDOW ASSEMBLY: MFR - US ALUMINUM; SERIES 400 WITH DARK BRONZE ANODIZED FINISH (UC74957), CENTER GLAZED (1/4" TEMPERED GLASS), OR EQUAL
3. INSTALL ALUMINUM STOREFRONT DOOR ASSEMBLY: MFR - US ALUMINUM; SERIES 400 WITH DARK BRONZE ANODIZED FINISH (UC74957), OFFSET HUNG DOOR, OR EQUAL
4. INSTALL ALUMINUM LOUVER ASSEMBLY: 2" DEEP FULL LITE INFILL LOUVER, INCLUDING HEAD AND SILL FLASHING
5. EXISTING COLUMN/SPANDREL TO REMAIN: REPAIR/REFURBISH TO MATCH EXISTING TRIMMED CONFIGURATION. PREP AND PAINT
6. EXISTING DOOR ASSEMBLY INCLUDING FRAME AND TRANSOM TO REMAIN, PREP AND PAINT
7. EXISTING DOOR ASSEMBLY INCLUDING FRAME, TRANSOM, AND SIDE LITE TO REMAIN, PREP AND PAINT
8. AWNING SIGNAGE: CHARACTERS 6" HIGH (50% OF OVERALL VERTICAL HEIGHT OF AWNING), 3" FROM TOP AND BOTTOM FLANGES.
9. INSTALL ALUMINUM AWNING ASSEMBLY: MFR - C.R. LAURENCE; C-SHAPED ALUMINUM FASCIA, CATALOG NUMBER: CANCSIC WITH 12MM DIAMETER S.S. TENSION RODS, CATALOG NUMBER: 270112CR B.S. ENDS, CATALOG NUMBER: 270112 B.S. DIAMOND SHAPED MOUNTING PLATES, CATALOG NUMBER: AW9DM B.S. INFILL AWNING WITH METAL DECK: MFR - VERCO DECKING; 1-5/16" DEEP, 24 GAUGE GALVANIZED ROOF DECK
10. RE-GROUT MORTAR JOINT AND APPLY SEALER TO BRICK PIER
11. AWNING MOUNTED PROJECTING SIGNAGE: 3" THICK MAX/3.5 S.F. MAX ALLOWED PER BUSINESS
12. DOUGLAS FIR WOOD DOOR - 1'-6" BOTTOM RAIL W/ 6" STILES & 8" TOP RAIL
13. INSTALL AWNING MOUNTED LIGHT FIXTURE: MFR - ACCESS LIGHTING; ULKO EXTERIOR LED OUTDOOR ROUND FLUSHMOUNT, BRONZE FINISH, 9" SQUARE, 19 WATT, 3000K, OR EQUAL
14. EXISTING ENTRY WAY TO REMAIN. REPAIR/REFURBISH FINISHES, PREP AND PAINT
15. EXISTING COLUMN BASE TO REMAIN. REPAIR/REFURBISH FINISHES, PREP AND PAINT
16. EXISTING FIRE ESCAPE TO REMAIN

CONSTRUCTION NOTES



SECTION

2 IMPROVEMENT ELEVATION



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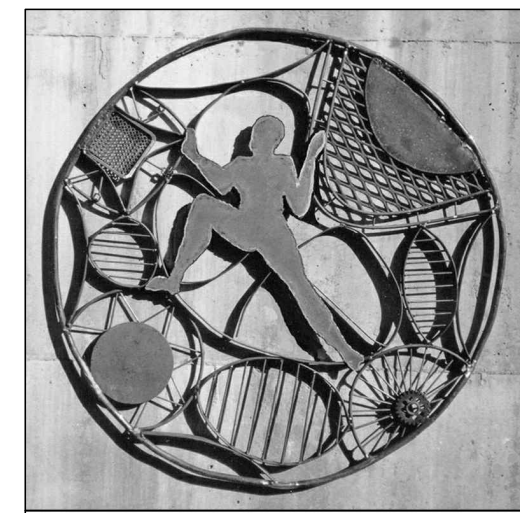
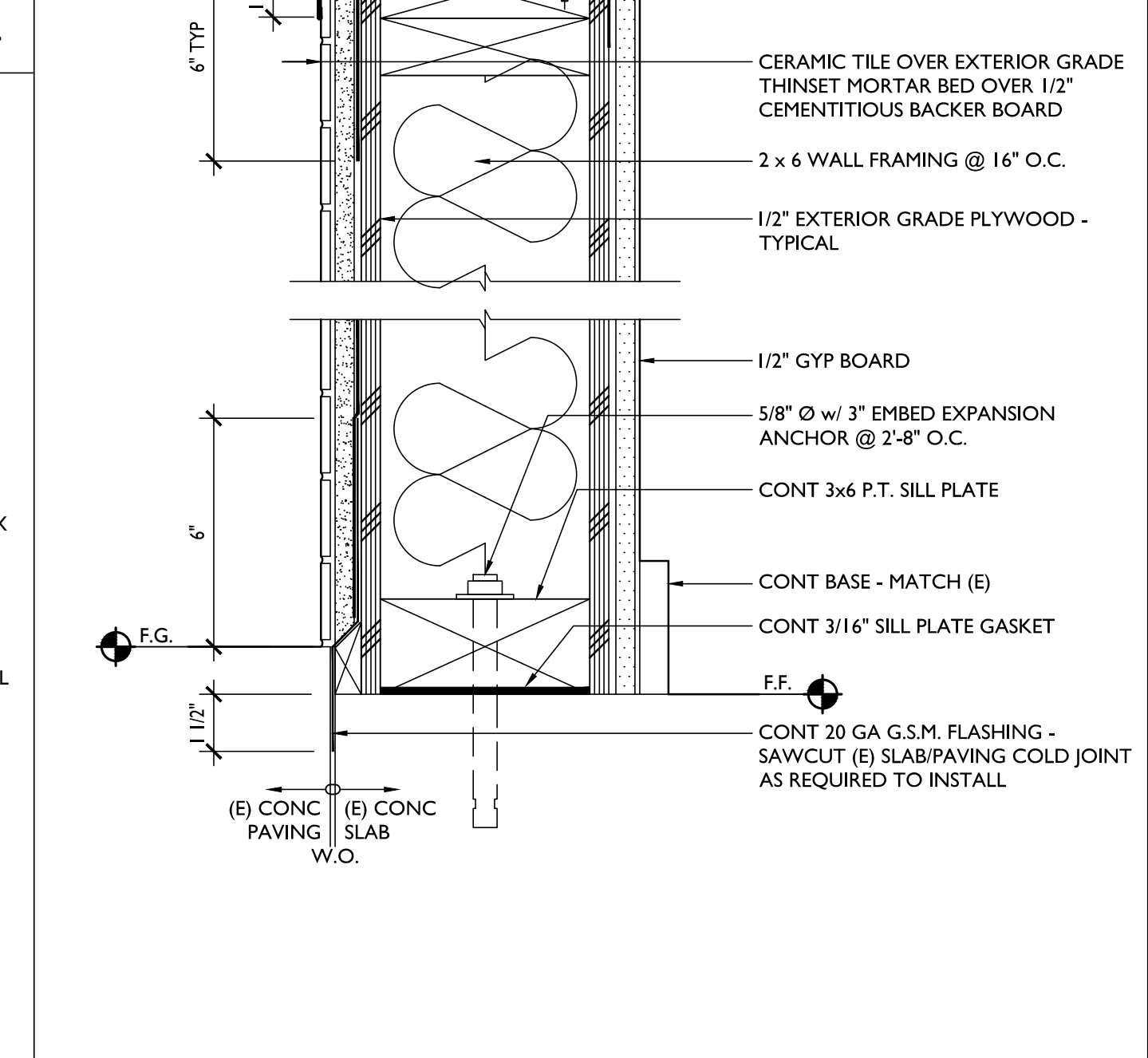
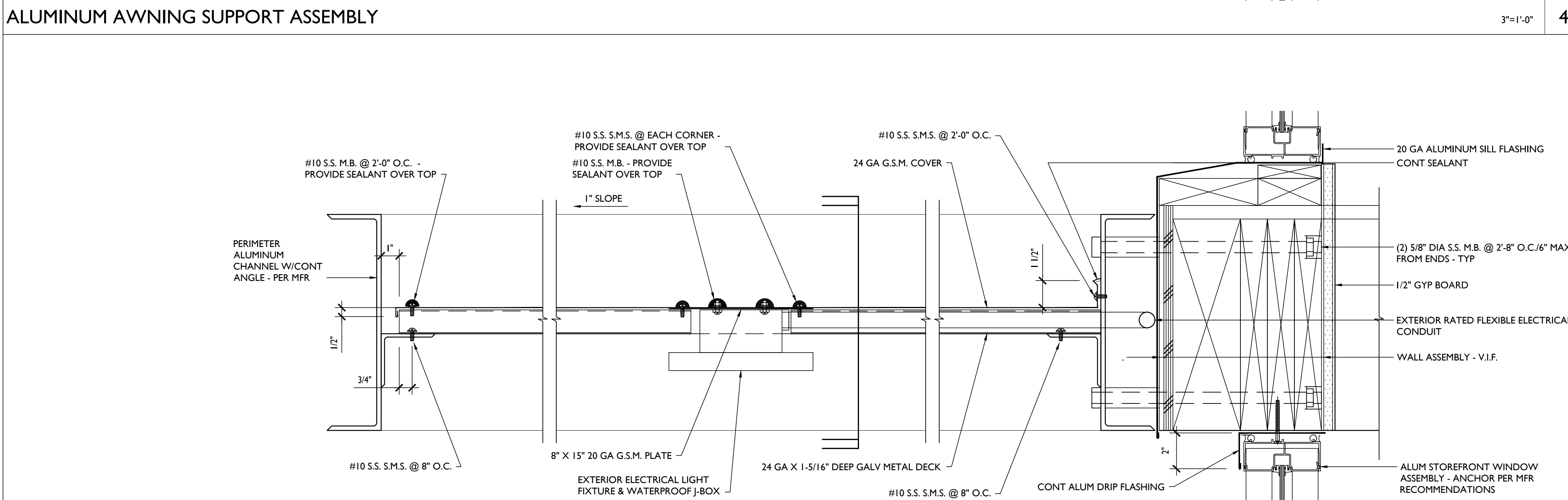
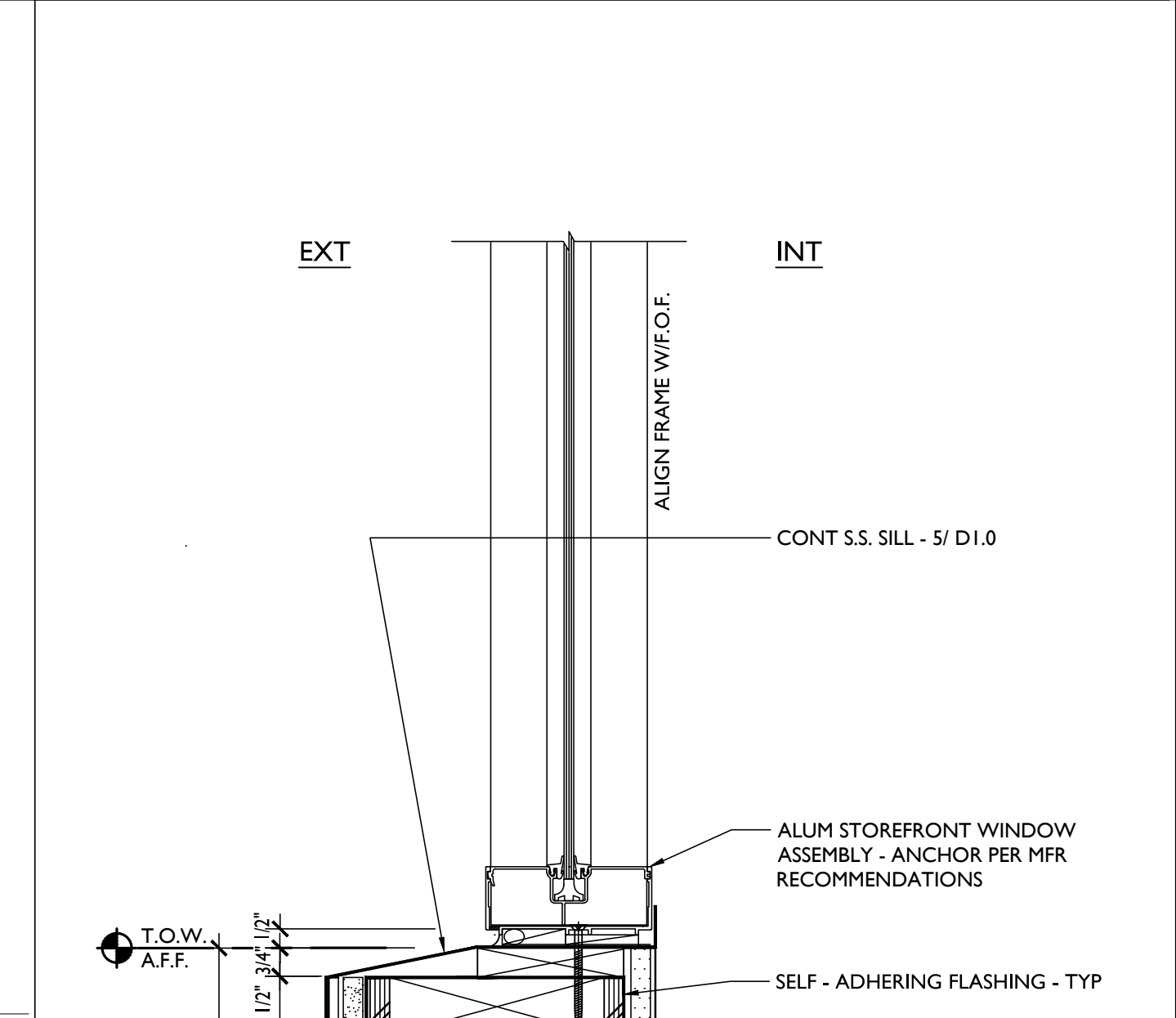
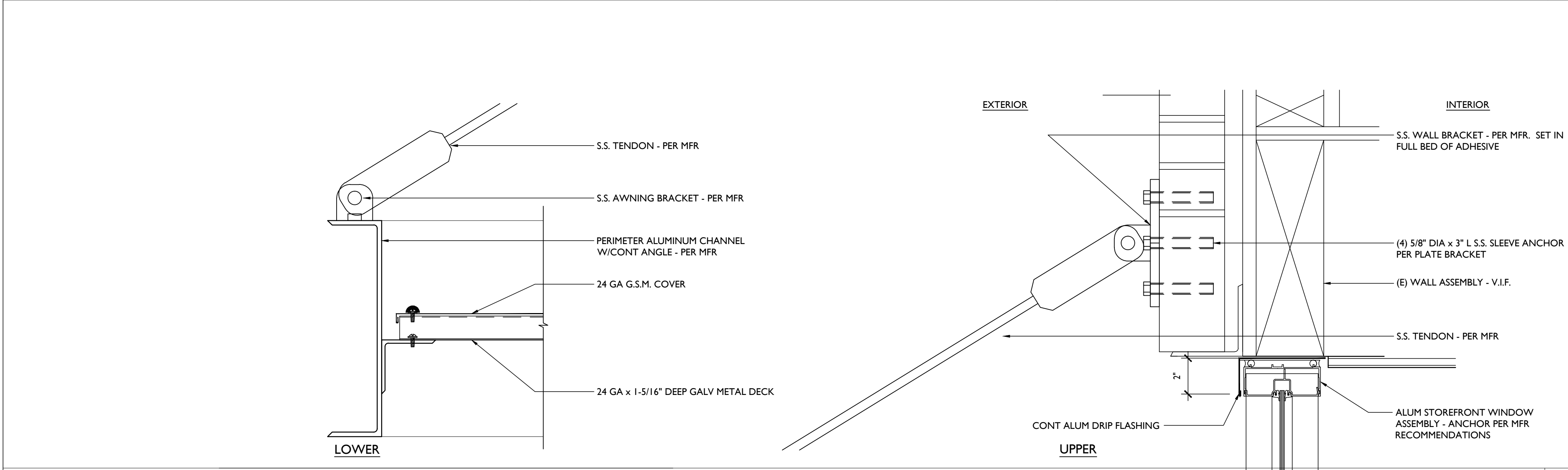
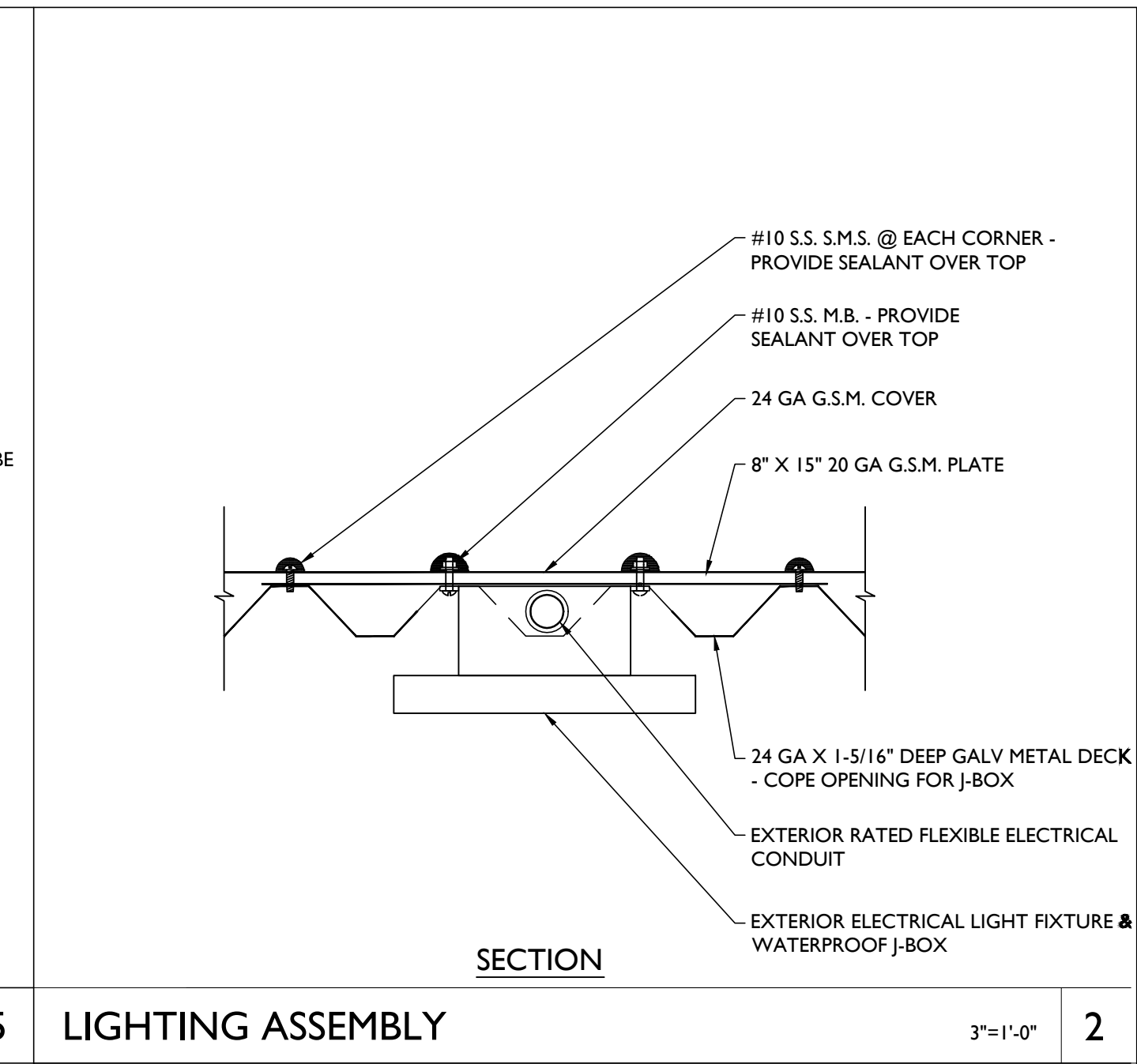
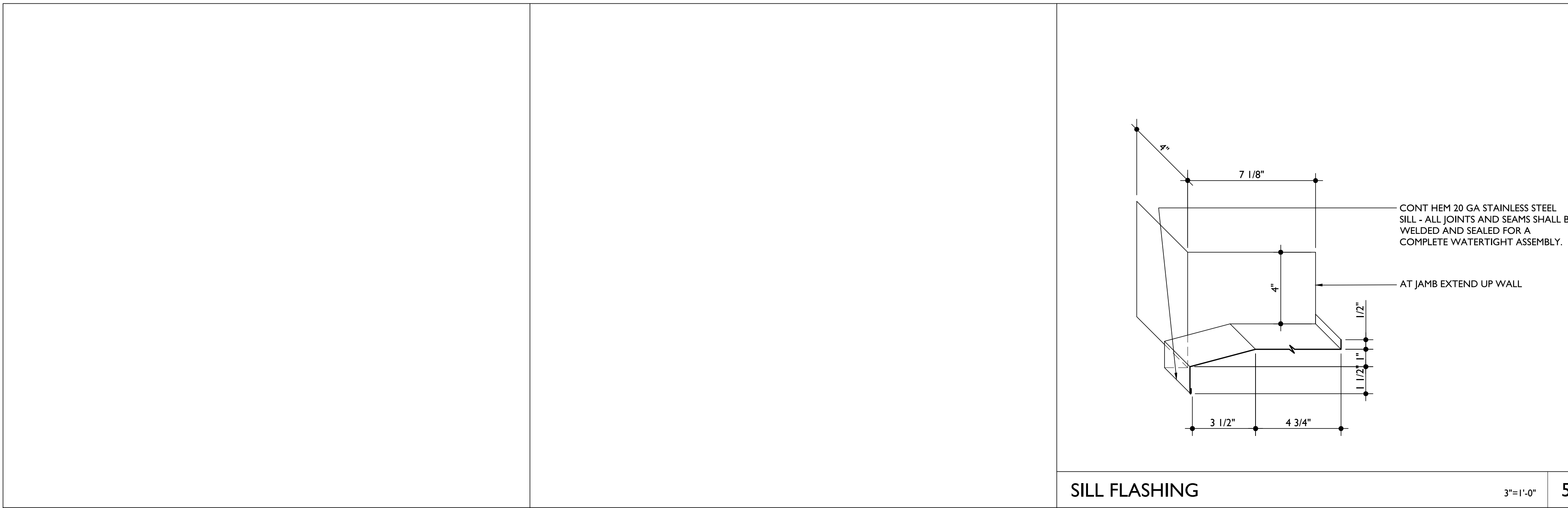
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IMPROVEMENT
ELEVATION

L.P.C. SUBMITTAL

DATE 01/17/2019





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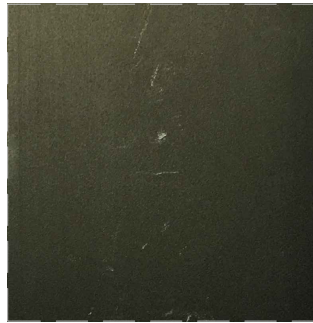
D1.0



LIGHT FIXTURE



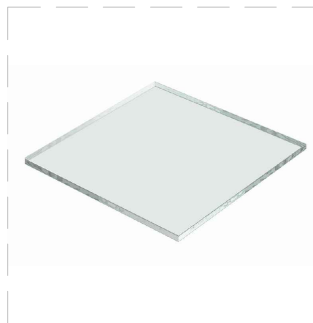
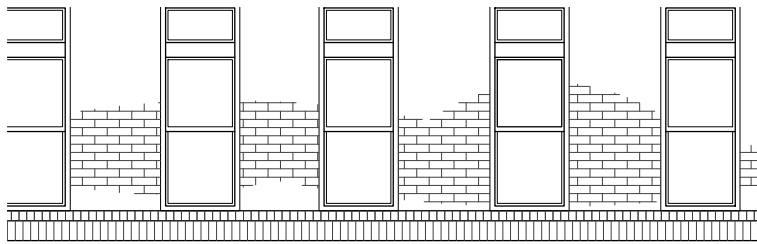
AWNING



1 STOREFRONT & AWNING
(DARK BRONZE ALUMINUM)



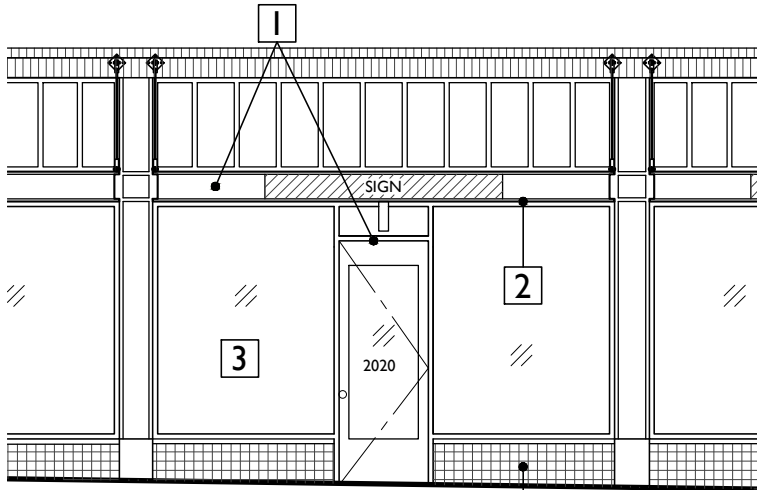
2 AWNING CEILING
(GALVANIZED METAL)



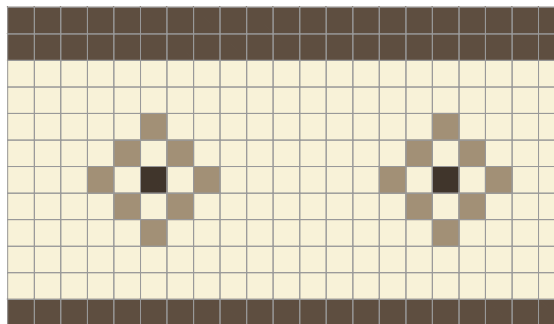
3 GLAZING
(CLEAR TEMPERED)



4 TILE
(DARK BROWN, MEDIUM BROWN,
LIGHT BROWN & BEIGE)



TYPICAL EXTERIOR ELEVATION



TILE PATTERN

2018-2030 UNIVERSITY AVENUE - EXTERIOR ELEVATION RENOVATION: MATERIAL SELECTION

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Office of the City Manager

INFORMATION CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Phillip Harrington, Director, Department of Public Works

Subject: goBerkeley Parking Management Program - Parking Rate and Time Limit Adjustments for New North Shattuck Area for December 1, 2019

INTRODUCTION

This report presents the staff proposal for parking meter rate and time limit adjustments to metered areas in a new goBerkeley area in the North Shattuck commercial district, centered on Shattuck Avenue between Hearst Avenue and Vine Street. The changes will take effect December 1, 2019. To provide the required thirty-day public notice, staff will provide notification through the City website and through coordination with merchants in affected program areas starting on November 1, 2019. The proposed meter rate and time limit adjustments are summarized as Attachment 1 to this report.¹

CURRENT SITUATION AND ITS EFFECTS

To ensure parking availability on a majority of block faces² in the existing goBerkeley Parking Program (Program) areas of Elmwood, Southside/Telegraph, Downtown Berkeley, and Northside (Euclid/Hearst), staff regularly monitor parking conditions to maintain parking occupancy between 65-85% in these areas. On October 29, 2019, should the Council approve the first reading of an Ordinance authorizing expansion of the Program to North Shattuck, and subsequently approve the second reading of this Ordinance on November 12, 2019, staff will be able to implement the parking management recommendations summarized in this report.

In spring 2019 staff collected parking occupancy data at metered parking spaces in the North Shattuck area. On these occasions, staff found that parking was difficult to find during the peak hour, which occurs at noon on a weekday. Following this quantitative analysis, in spring and summer 2019 staff gathered feedback from merchants in the North Shattuck commercial area to better understand parking conditions and local needs. Staff conducted door-to-door outreach during weekday business hours throughout May 2019, interviewing local merchants and administering paper surveys.

¹ These changes are made in compliance with the July 12, 2016 Resolution No. 67,613-N.S. that specifies how demand-responsive on-street and off-street parking is implemented within goBerkeley parking program areas.

² Block face - one side of one block, e.g., the north side of Center Street between Milvia Street and Shattuck Avenue.

Businesses that could not be reached were left fliers with a link to an online survey. Staff heard from several businesses (including restaurants and other services) that parking was difficult to find, and that existing time limits, which range from thirty minutes to two hours, were insufficient for their customers and employees.

Additionally, staff anticipate that the loss of the Berkeley Way parking lot at the end of 2019 will further increase parking demand in the immediate vicinity of the lot, including metered parking on Shattuck Avenue north of Hearst Avenue. This expansion of goBerkeley will help staff more actively manage parking to provide availability even as more drivers may be searching for a spot in this area.

Staff's key findings and recommended adjustments for North Shattuck are summarized below:

I. New goBerkeley Area: North Shattuck

A. Observed Conditions

- A majority of block faces in this area were above the target 65-85% occupancy rate during the peak hour on weekdays and Saturdays.
- From the survey, a majority of local merchants agree with the statement that parking is an issue for their business; disagree that parking is easy to find for their customers to find; and disagree that existing time limits are sufficient.
- Lack of available parking, time limits being too short, and unclear parking rules were among the most frequently expressed themes and frustrations that staff heard from interviews with local merchants.

B. Recommended Adjustments

- Create a "Premium" zone throughout the North Shattuck commercial district with a three-hour time limit and a meter rate of \$2.00/hour.

In July 2019, staff discussed preliminary findings with the North Shattuck Association (NSA), and provided options for time limits that could meet the needs of the area. NSA board members suggested a three-hour time limit, which would allow more flexibility for visitors in the area, particularly during the holidays. In August 2019, staff conducted a second round of outreach to North Shattuck merchants outlining this proposal and soliciting feedback on the recommendations. A copy of the flyer distributed to merchants is provided as Attachment 4.

BACKGROUND

The City uses parking meters to manage parking demand, particularly in commercial areas where parking availability and turnover are critical for customer access and convenience. The goBerkeley program is comprised of a suite of strategies and initiatives designed to improve economic vitality and reduce greenhouse gas emissions.

goBerkeley features improved parking availability that improves pedestrian and bicyclist safety by reducing the likelihood of incidents of distracted driving as drivers search for parking. Clearer signage and longer on-street parking time limits also provide better customer service.

ENVIRONMENTAL SUSTAINABILITY

Drivers are anticipated to spend less time searching for available parking spaces, which should reduce traffic congestion and vehicle emissions. Reducing greenhouse gas emissions produced by vehicular traffic is one of the goals of the City's 2009 Climate Action Plan.

POSSIBLE FUTURE ACTION

If Council takes no further action regarding recommended rate and time limit adjustments, staff will begin public notification November 1, 2019 through the City website and outreach to merchants. Staff anticipates implementing these adjustments December 1, 2019.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Fiscal impacts are difficult to forecast as demand-responsive parking pricing may result in increased or decreased parking rates in different areas, and parking behaviors resulting from these price adjustments may vary. Nevertheless, staff anticipates incremental parking revenue from the goBerkeley parking program should continue to be sufficient to cover expected expenditures of this baseline program.

CONTACT PERSON

Farid Javandel, Transportation Manager, Public Works (510) 981-7061
Danette Perry, Parking Services Manager, Public Works (510) 981-7057
Gordon Hansen, Senior Planner, Public Works (510) 981-7064

Attachments:

- 1: City Council Notification Report
- 2: Peak Occupancy (12 p.m.) on an Average Weekday, March 2019
- 3: Peak Occupancy (12 p.m.) on a Saturday, March 2019
- 4: Summer 2019 Public Outreach Flyer

PARKING CHANGES

The following tables show the seven (7) elements that staff updates Council and the public on prior to each goBerkeley Program change.

1. Types of Parking Affected		
<input checked="" type="checkbox"/> ON-STREET METERS	<input type="checkbox"/> GARAGES	<input type="checkbox"/> LOTS

2. Dates		
Date of Proposed Change	Date of Previous Change	Days Between Change
December 1, 2019	August 1, 2019 (at existing goBerkeley Euclid/Hearst area)	122 days

3. Areas Affected			
Area Name	Area Zone	Boundaries	Map
North Shattuck	Premium	<ul style="list-style-type: none"> • Delaware Street, south side, from Shattuck Avenue to 60 feet east of Shattuck Avenue. • Francisco Street, both sides, from Shattuck Avenue to 100 feet west of Shattuck Avenue. • Lincoln Street, south side, from Shattuck Avenue to 150 feet west of Shattuck Avenue. • Rose Street, north side, from 100 feet east of Shattuck Avenue to 100 feet west of Henry Street. • Rose Street, south side, from Walnut Street to Shattuck Place. • Shattuck Avenue, both sides, from 100 feet north of Rose Street to Hearst Street. • Shattuck Avenue, east side, from Rose Street to Vine Street. • Shattuck Place, west side, from Rose Street to Shattuck Avenue. • Vine Street, north side, from 75 feet east of Walnut Street to 100 feet east of Henry Street. • Vine Street, south side, from 100 feet east of Henry Street to 150 feet east of Walnut Street. • Virginia Street, north side, from 150 feet east of Shattuck Avenue to 150 feet west of Shattuck Avenue. 	See Attachment 2.

		<ul style="list-style-type: none"> • Virginia Street, south side, from Shattuck Avenue to 125 feet west of Shattuck Avenue. • Walnut Street, west side, from Rose Street to 200 feet south of Vine Street. • Walnut Street, east side, from 75 feet north of Vine Street to 125 feet south of Vine Street. 	
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4. Rate Changes				
Name	Parking Type	Existing Rate	Proposed Rate	Change
North Shattuck	Premium	\$1.50/hour	\$2.00/hour	+ \$0.50

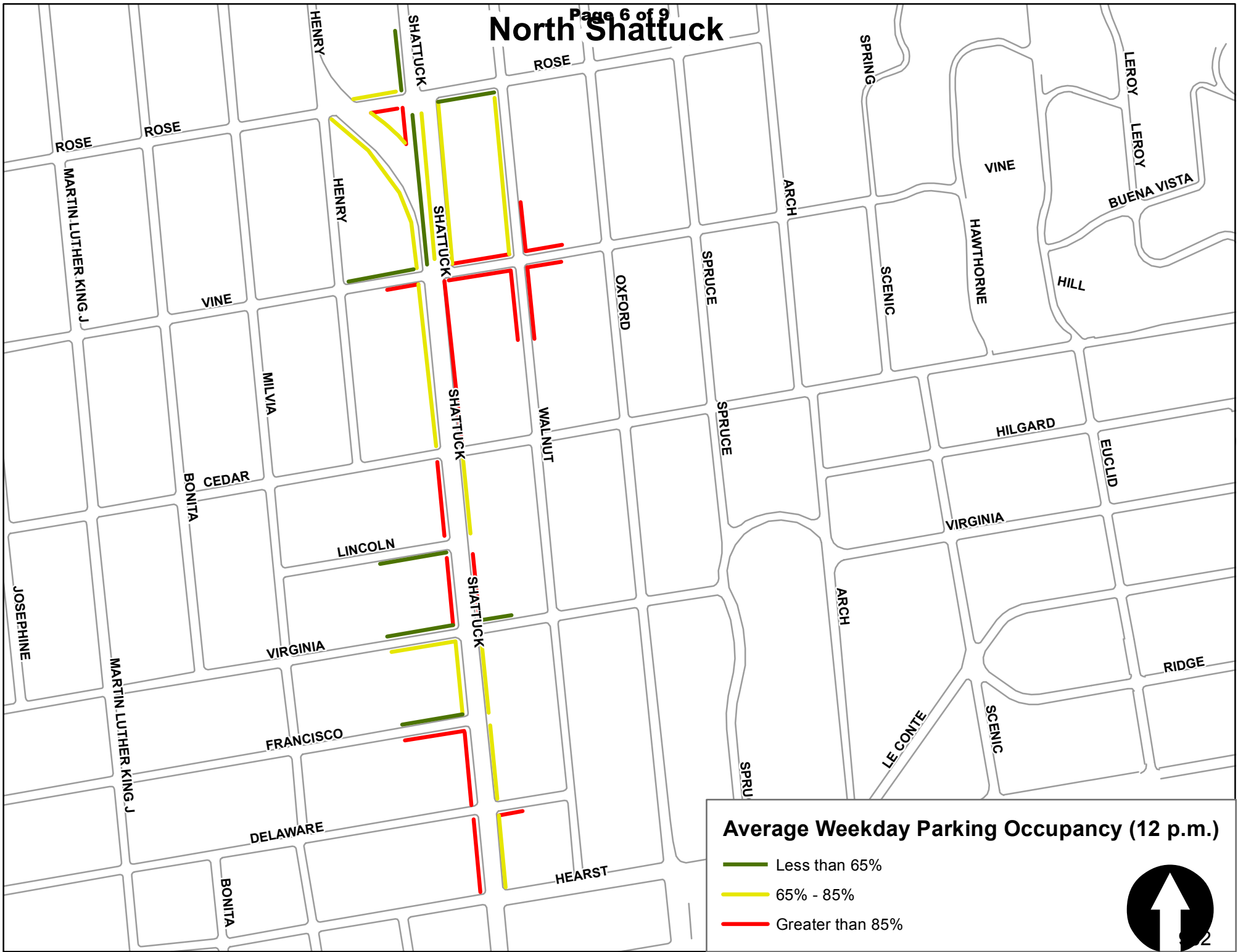
5. Time Limit Changes			
Area Name	Area Zone	Existing	Proposed
North Shattuck	Premium	30, 60, or 120 minutes	180 minutes

6. Hours of Operation			
Area Name	Area Zone	Existing	Change
No changes recommended at this time.			

7. Parking Occupancy						
Occupancy Key: "Under" = 0-65% "Target" = 65-85% "Over" = 85%+			Spring 2019 ³			
Area Name	Area Zone	Parking Occupancy	Weekday (Typ. 12pm)		Saturday (Typ. 12 pm)	
			# of Blockfaces	%	# of Blockfaces	%
North Shattuck	Premium	Under	8	21%	10	26%
		Target	13	33%	7	18%
		Over	18	46%	22	56%

³ Data were collected at 9am, 12pm, 3pm, and 5pm on weekdays and one Saturday in March 2019.

North Shattuck

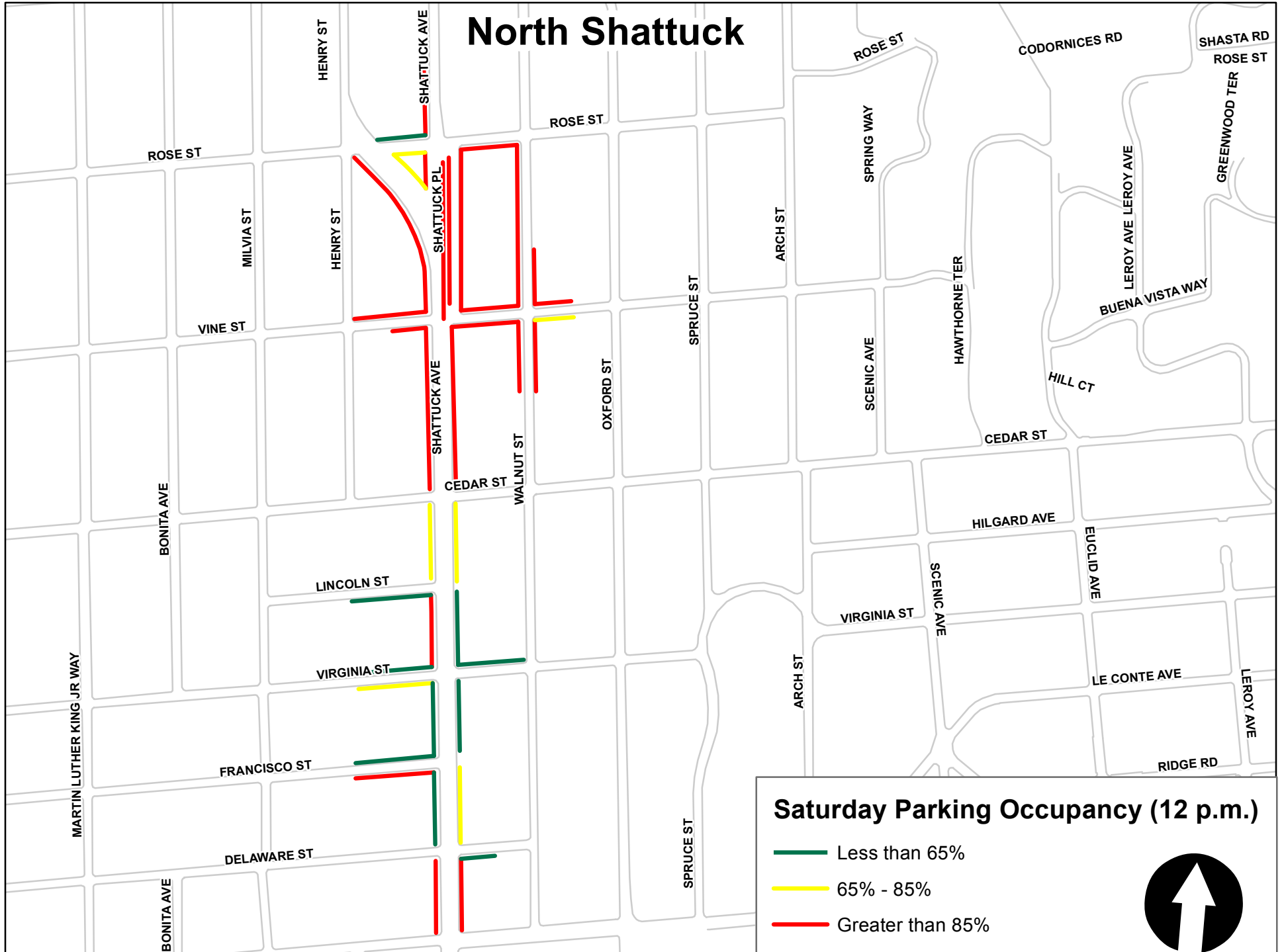


Average Weekday Parking Occupancy (12 p.m.)

- Less than 65%
- 65% - 85%
- Greater than 85%



North Shattuck



Having trouble finding parking in North Shattuck?

goBerkeley is here to help



North Shattuck Expansion Recommendations

In May 2019, City of Berkeley Parking Services staff conducted door-to-door outreach to hear from businesses owners and employees how parking in the North Shattuck/Gourmet Ghetto commercial area could be improved.

What We Learned...

From nearly 60 responses to our paper and online survey

69% Agree parking is an issue for their business

60% Agree parking is NOT easy for customers to find

64% Agree parking time limits are NOT sufficient

From over 60 in-person conversations



are among the most frequently expressed themes related to customer or visitor parking.

From our analysis of parking data

Most blocks are too full

It's hard to find parking in the North Shattuck area when demand is highest, at noon on weekdays and Saturdays, when most metered blocks are over 85% full. When blocks are full, people have to circle for a spot.

Draft Recommendations



Extend time limit to 3 hours

Proposed after discussion with the North Shattuck Association board, all meters would have a **3-hour time limit**. The goal is to simplify parking options in the area, and allow visitors the opportunity to shop, dine, and explore the neighborhood.



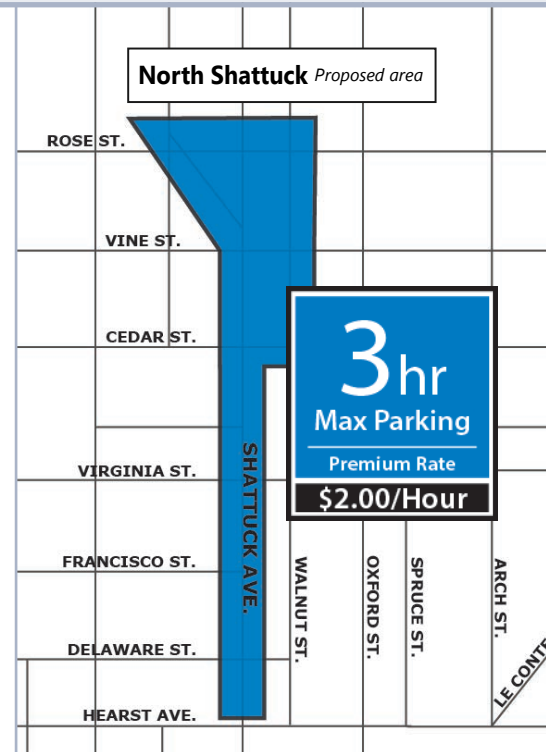
Set prices to open up spaces

The City will periodically measure parking occupancy and raise or lower hourly prices to achieve the optimal occupancy rate (65-85%). Based on current parking occupancy rates, prices would increase to **\$2.00/hour**. The goal is to always have at least one space available on a block so visitors don't have to circle for parking.



Install clearer, brighter signage

The City will install **new signage** that will clearly identify parking rules and expectations.



This material is available in alternative formats upon request. Alternative formats include audio-format, braille, large print, electronic text, etc. Please contact the Disability Services Specialist, Dominika Bednarska (DBednarska@cityofberkeley.info | 510-981-6418) and allow 7-10 days for production of the material in an alternative format.

Next Steps

Summer 2019: Refine Proposal

Continue engagement with North Shattuck merchants

Fall 2019: Present to City Council

Obtain City Council approval to expand goBerkeley to North Shattuck

January 2020: Expand goBerkeley

Install new signs, update meter programming, and provide advanced notification of changes

Let us know if 3 or 2 hour time limits are best for North Shattuck. Take our survey!

<http://bit.ly/nsparking>

Questions? Contact us.

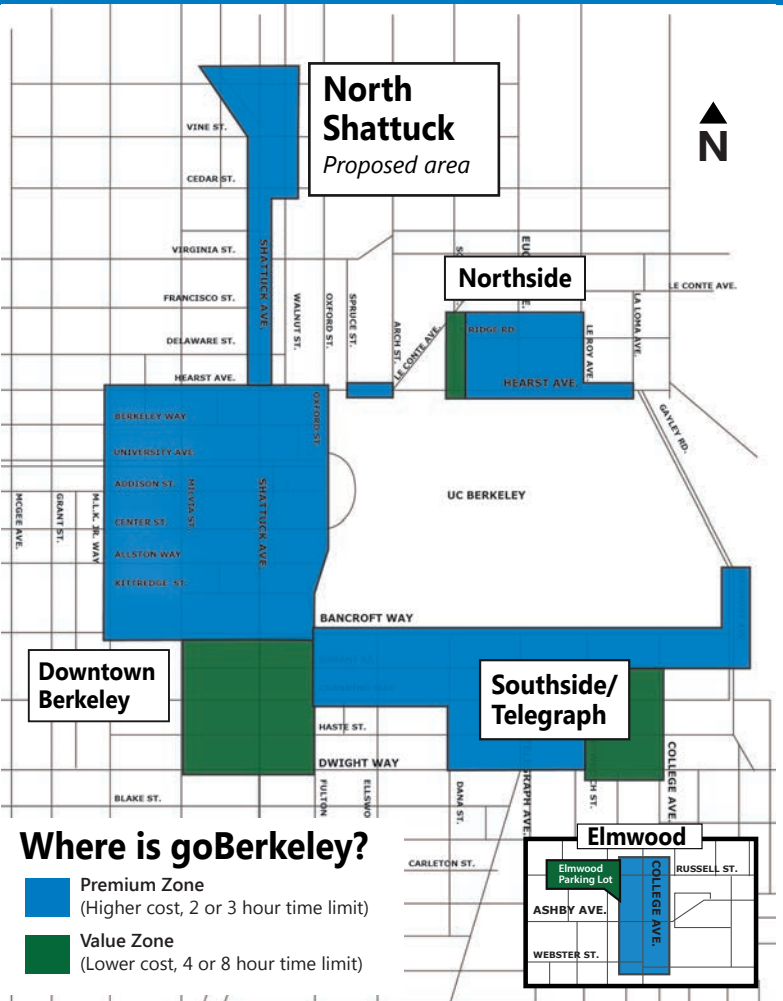


Gordon Hansen

goBerkeley Program Manager
ghansen@cityofberkeley.info
510-981-7064

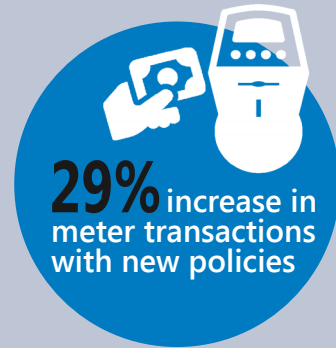
What is goBerkeley?

goBerkeley is a City program with the goal of making it easier to park in Berkeley. Currently in place in Downtown Berkeley, Southside/Telegraph, Elmwood, and Northside, goBerkeley uses an evidence-based approach to increase parking availability. After analyzing parking activity, staff adjust meter rates to ensure 1-2 parking spaces are always open, so drivers don't have to circle for a spot. goBerkeley also increases driver choice by lengthening time limits in some areas, and makes it easier to understand parking rules and expectations through clearer, brighter signage.



goBerkeley Results

goBerkeley began as a federally-funded pilot. Analysis of the program found...



By increasing parking availability, goBerkeley can help increase the number of visitors to area destinations.



Clearer signage, new parking options, and demand-responsive pricing provide a better visitor experience in goBerkeley areas.



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Parks and Waterfront Commission

INFORMATION CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council
 From: Children, Youth, and Recreation Commission
 Submitted by: Elizabeth Echols, Chairperson
 Subject: Children, Youth and Recreation Commission 2019 Work Plan

INTRODUCTION

The Children, Youth, and Recreation Commission has updated its work plan, which outlines Commission objectives for the upcoming year. This work plan includes making recommendations to City Council to further the goals of 2020 Vision; identify the needs and gaps in services for Berkeley Youth; provide support regarding outreach and marketing of programs; and examine out of school time/afterschool resources for Berkeley youth.

CURRENT SITUATION AND ITS EFFECTS

At the regular meeting on September 16, 2019, the Children, Youth, and Recreation Commission approved the Commission's 2019 Work Plan, which will be used to guide the Commission's work throughout the year.

M/S/C (Freeman/Echols/U) to approve the work plan and submit an Information Report to City Council.

Ayes: Batista, Brookshire, Freeman, Echols, Richards, Taylor

Noes: None

Absent: None

Leave of Absence: Capitelli

BACKGROUND

See attached Work Plan.

ENVIRONMENTAL SUSTAINABILITY

No environmental impacts or opportunities were identified as a result of this recommendation.

POSSIBLE FUTURE ACTION

Based on Commission research and public input, new initiatives and recommendations to City Council may be submitted to City Council at such time deemed necessary.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

No fiscal impacts identified at this time.

CONTACT PERSON

Steph Chu, Secretary, Children, Youth, and Recreation Commission, 981-5146
Elizabeth Echols, Chairperson

Attachment: 1: Children, Youth, and Recreation Commission 2019 Work Plan

CHILDREN, YOUTH, AND RECREATION COMMISSION ANNUAL WORK PLAN (Approved on September 16, 2019)

MISSION STATEMENT

The Children, Youth, and Recreation Commission shall be an advisory board and shall seek to achieve equity in policies, programs, planning efforts, activities, and funding associated with youth, families, early childhood education, recreation, and other related City-sponsored activities. The Commission shall advise the City Council on these matters.

- 1. Make recommendations to City Council to further the goals of the 2020 Vision for Berkeley's Children and Youth to close the opportunity gap and ensure that all young people in Berkeley grow up with equitable opportunities to achieve high outcomes and realize their full potential.**
- 2. Identify needs/gaps in City's community and recreation services for Berkeley's youth.**
 - a. Invitations for public input at regular Commission Meetings and report to Council on findings.
 - b. Review program data including, but not limited to, demand, utilization, demographics, and funding for existing programs.
 - c. Make recommendations to Council.
- 3. Examine out-of-school time/afterschool resources throughout community for Berkeley youth.**
 - a. Engage with 2020 Vision staff to document current successes and potential gaps in educational offerings in out-of-school time programs, including afterschool and summer programs.
 - b. Provide recommendations to Council regarding academics in afterschool programs.
- 4. Provide support to Recreation Division staff and make Council recommendations regarding the outreach and marketing of programs to the Berkeley community.**
 - a. Make recommendations to Council regarding approaching outreach through equity lens (entire community), particularly access to scholarships, free programs, and youth employment opportunities.
 - b. Make recommendations to Council regarding city-wide communication (which can include City of Berkeley, Community Agency contractors, and BUSD).
 - c. Review data on outcomes of outreach strategies.
- 5. Coordinate with Parks & Waterfront Commission regarding alignment of future T1 facility improvement and program provision.**
 - a. Develop a tool/rubric to recommend to Council for staff to use when determining alignment for:

**CHILDREN, YOUTH, AND RECREATION COMMISSION
ANNUAL WORK PLAN (Approved on September 16, 2019)**

- i. Equity/Access
 - ii. Adaptability for program shifts in the future
 - b. Identify opportunities for synergy with other projects.
- 6. Review and recommend revisions to Community Agency Grant application and review process.**
 - a. Document current successes and potential gaps/inconsistencies in scoring and report to Council.
 - b. Develop a process to work closely with 2020 Vision staff to evaluate the progress of grantees.
 - c. Receive quarterly updates on grantees from 2020 Vision staff.
 - d. Make recommendations to City Council regarding RFP outreach to new organizations.



Civic Arts Commission

INFORMATION CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council
 From: Civic Arts Commission
 Submitted by: Lisa Bullwinkel, Chairperson, Civic Arts Commission
 Subject: Civic Arts Commission Fiscal Year 2020 Work Plan

INTRODUCTION

The Civic Arts Commission has updated its work plan, which outlines Commission objectives for the 2020 fiscal year based upon goals articulated in the *City of Berkeley Arts & Culture Plan (2018 - 2027 Update)* and reflective of previously initiated projects that are already under way. This work plan includes a variety of objectives in a number of civic arts areas: Policy, Grants, Public Art, Arts Education, and Design Review.

CURRENT SITUATION AND ITS EFFECTS

At the regular meeting on September 25, 2019, the Civic Arts Commission unanimously approved a recommendation to accept the updated work plan, which is used to guide the Commission's work throughout the year. M/S/C: (Anno/Slattery) to approve the Civic Arts Program FY20 work plan. Ayes—Anno, Blecher, Bullwinkel, Covarrubias, Ozol, Passmore, Ross, Slattery, Tamano; Noes—none; Abstain—none; Absent—none.

BACKGROUND

See attached Work Plan.

ENVIRONMENTAL SUSTAINABILITY

No environmental impacts or opportunities were identified as a result of this recommendation.

POSSIBLE FUTURE ACTION

Based on Commission research and public hearings, new initiatives and recommendations to City Council may be submitted to City Council at such time deemed necessary.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

No fiscal impacts determined at this time.

CONTACT PERSON

Jennifer Lovvorn, Commission Secretary, Civic Arts Commission, (510) 981-7533
 Attachment: 1: Civic Arts Commission Fiscal Year 2020 Work Plan



Civic Arts Commission

FY20 Civic Arts Commission Work Plan

Civic Arts Commission Date: 9/25/19

Policy Committee

1. Advocate to Council for one-third of Short Term Rental Revenues to be allocated to Civic Arts Grants.
2. (With Grants Committee) Review and approve Civic Art Grants Guideline Revisions for FY21 for Arts Organizations, Individual Artists, and Festivals.
3. (With Grants Committee) Develop guidelines for an Art Space Capital Projects Grant Program in preparation for any possible Significant Community Benefit Funds.
4. Advocate to Council for funding to support an Art Space Capital Projects Grant Program on an ongoing basis to help stem displacement of Berkeley-based arts and culture nonprofits.
5. (With Grants Committee and Berkeley Arts Education Steering Committee "BAESC") Develop guidelines for an Arts Education Grant Program and advocate to Council for funding for this program from Cannabis tax revenue.
6. (With Public Art Committee) Review and approve revised Public Art Guidelines updated to reflect best practices and recommend corresponding updates to the Municipal Code where relevant.
7. Advise Council on baseline grants funding of \$500,000 for Arts Organizations and Individual Artists.
8. Advise Council on waivers for construction related entitlement/building permit fees for Nonprofit Arts Organizations' building projects.
9. Create Guidelines for the selection of the City of Berkeley Poet Laureate.
10. Advise Council on the inclusion of Affordable Housing Strategies for Artists and Cultural Workers in the City's Affordable Housing Policy Framework.
11. Develop a process for certifying Artists and Cultural Workers for eligibility for

affordable housing.

12. (With Public Art Committee) Advocate to Council to establish an ordinance to properly implement the 1.5% for Public Art requirement for City Construction Projects.

Grants Committee

1. (With Policy Committee) Review and approve Civic Art Grants Guideline Revisions for FY21 for Arts Organizations, Individual Artists, and Festivals.
2. (With Policy Committee) Develop guidelines for an Art Space Capital Projects Grant Program in preparation for any possible Significant Community Benefit Funds.
3. (With Policy Committee and BAESC) Develop guidelines for an Arts Education Grant Program and advocate to Council for funding for this program from Cannabis tax revenue.
4. Review Grant Panel Scores and determine Civic Art Grant award amounts for FY21.
5. Review analysis prepared by staff of geographic spread of FY21 grants funds throughout City of Berkeley.

Public Art Committee

1. (With Policy Committee) Review and approve revised Public Art Guidelines updated to reflect best practices and recommend corresponding updates to the Municipal Code where relevant.
2. Review and approve selected artists and proposals for T1 Project at San Pablo Park.
3. Review and approve selected curator for Cube Space.
4. Review and approve 2020 Civic Center Exhibition artists and artwork purchases.
5. Review and approve Private Percent for Art Plans at the following phases: Conceptual, Preliminary, and Final.
6. Review and approve specific installation site for the donated Assyrian Queensculpture.
7. Review and approve the Call for Artists for the Homelessness Social Practice Public Art Project.
8. Determine the disposition of the "Berkeley Big People" sculpture

Commission Representatives to the Berkeley Arts Education Steering Committee

1. (With Policy & Grants Committees) Develop guidelines for an Arts Education Grant Program and advocate to Council for funding for this program from Cannabis tax revenue.
2. Assist with grant application to the California Arts Council for additional funding for the BEARS Arts Summer Program.
3. Build relationships with Berkeley Unified School District Board Members by attending office hours and sharing Create CA student declaration of rights.
4. Research feasibility of arts organizations participating in Youth Works or obtaining workforce development funding for high school students to be summer arts instructors.
5. Explore feasibility of developing partnerships with colleges and universities to offer unit credit for teaching in BUSD afterschool and summer arts programs.
6. Discuss advocacy to BUSD Board to provide theater, dance, and visual arts education comparable to the district's successful music instruction program.

Commission Representative to the Design Review Committee

1. Ensure proposed building projects reviewed by DRC comply with the Private Percent for Art Ordinance.

Commission Representatives to the Civic Center Visioning Work Group

1. (With entire Commission) Participate in the Civic Center visioning process for the Veterans Building, City Hall, and Civic Center Park.



Commission on Aging

INFORMATION CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Commission on Aging

Submitted by: George Porter, Chairperson, Commission on Aging

Subject: Fiscal Year 2020 Commission on Aging Work Plan

INTRODUCTION

The Commission on Aging (the CoA) has updated its work plan, which outlines Commission objectives for the upcoming fiscal year. This work plan includes researching and gathering information; supporting Berkeley Age Friendly Initiatives; addressing concerns from other municipal agencies; focusing on Age Friendly housing initiatives and non-commute-related transportation efforts; broadening awareness of, and communication with, other Commissions with regards to policies that affect the older adult population.

CURRENT SITUATION AND ITS EFFECTS

At the regular meeting on July 31, 2019, the Commission on Aging approved the commission's 2019-2020 Work Plan, which will be used to guide the Commission's work throughout the year.

M/S: Porter/ Murphy

Ayes: Porter, Murphy, Lasell, Candau Noes: None

Abstain: Gordon

Leave of Absence: Young

BACKGROUND

See attached Work Plan.

ENVIRONMENTAL SUSTAINABILITY

No environmental impacts or opportunities were identified as a result of this recommendation.

POSSIBLE FUTURE ACTION

Based on Commission research and public hearings, new initiatives and recommendations to City Council may be submitted to City Council at such time deemed necessary.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

No fiscal impacts identified at this time.

CONTACT PERSON

Richard Castrillon, Commission Secretary, HHCS, (510) 981-7777

Attachments:

1: Commission on Aging 2020 Work Plan



Commission on Aging

Commission on Aging 2020 Workplan

Commission Mission Statement:

To enhance the quality of life for people 55 years and older in the Berkeley Community, and to increase public awareness of their contributions and needs by actively promoting their health, safety, independence and participation in our community.

To carry out its mission, the Commission on Aging (the CoA) will work in the following areas over the next year:

1: Support “Berkeley Age Friendly Initiatives”

- a. Resources
 - i. Staff time
- b. Program activities
 - i. Staff time will be used to coordinate commission meeting presentations from guests relevant to Age Friendly Initiative issues, and for the preparation of council submissions.
 - ii. When deemed necessary, the commission will hold Age Friendly Forums to inform the public of progress of Age Friendly Initiatives in presenting strategic plan to council. .
- c. Output(s)
 - i. Commission will develop recommendations for City Council regarding Age Friendly Initiatives.
 - ii. Public/commission information exchange
- d. Outcomes
 - i. Short-term desired changes: Council adoption of Age Friendly Initiatives.
Long- term desired changes: Aging being considered in all city policies
 - ii. Broader awareness and more informed recommendations

2: Address referrals from other Municipal Agencies

- a. Resources
 - i. Staff time

- b. Program activities
 - i. As usual, the CoA will do its best to take into consideration all items referred to it by Council, Municipal Departments and other commissions and make comment when necessary.
- c. Output(s)
 - i. Communications with agencies mentioned above
- d. Outcomes
 - i. Better alignment of City policies with the CoA's mission

3: Focus on Aging Friendly Housing Initiatives and Non-Commute Related Transportation

- a. Resources
 - i. Staff time
- b. Program activities
 - i. Staff time will be used to coordinate commission meeting presentations from guests relevant to the Age-Friendly survey's identification of Housing and Transportation as Berkeley's older residents' most pressing concerns.
 - ii. As regards housing, in addition to the growing problem of senior homeless, particular emphasis will be placed on examining existing policies and/or proposing new ones that will more effectively allow for and encourage seniors to healthfully age in their homes or apartments or, when appropriate, shift to other, affordable living circumstances within the community.
 - iii. iii.. In the case of Transportation, particular emphasis will be put on non-workforce-commute related "daily-activity" transportation issues within the city itself (and nearby) that are of particular importance to seniors. The CoA will work to ensure that policies reflect that demographics' needs, especially as regards inclusive (as opposed to segregating) public transportation and including examination of possible new transportation models (i.e., a coordinated shuttle bus system, personalized demand-responsive transit service, "around town" carpooling cooperatives, etc.) that might better serve these needs.
- c. Output(s)
 - i. Communications with agencies mentioned above including sending liaisons to the Housing and Transportation Commissions when deemed necessary.
- d. Outcomes
 - i. Constantly expanding housing and transportation opportunities that better serve the needs of elders.

4: Broader awareness of and communication with other Commissions as regards policies the effect the Elder population.

a. Resources

- i. Staff time.

b. Program activities

- i. To the best of our abilities, individual commission members - with informational assistance of staff - will do their best to examine the work-plans and agendas of other commissions for items that may affect the health, well-being and community participation of the aging population, attend their meetings when necessary as liaison and report back to the Commission as a whole.
- ii. When deemed necessary, the CoA will request these liaisons to other commissions to state our specific position on relevant items. In other cases, we will simply communicate through our secretary with these other commissions.

c. Output(s)

- i. Commission will develop recommendations for these other commissions (and/or Council) regarding those elements of their policy development and/or planning that we deem relevant to senior concerns.

a. Outcomes

- i. To ensure that the concerns of our elder community are addressed in all phases of all policy making and planning processes.



Energy Commission

INFORMATION CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council
 From: Energy Commission
 Submitted by: Cate Leger, Chairperson, Energy Commission
 Subject: Berkeley Energy Commission Work Plan for 2019-2020

INTRODUCTION

The Berkeley Energy Commission is charged with advising the City Council on matters related to energy conservation and alternative energy development in the City of Berkeley. To fulfill this mission, the Energy Commission proposes taking action in the following strategic areas over the next year:

- Promoting carbon reductions in the built environment
- Reducing transportation energy use
- Supporting Citywide greenhouse gas reduction plans

CURRENT SITUATION AND ITS EFFECTS

The attached work plan outlines the specific activities and deliverables the Energy Commission will work on over the next year. The members of the Energy Commission developed this work plan in consultation with City staff to ensure alignment of priorities and gives priority to existing referrals to the Commission from the City Council.

At its meeting June 26, 2019 the Energy Commission voted to approve the attached work plan and send it to the City Council as follows: Motion/second (Schlachter, Weems). The motion carried 6-0-0-3; Ayes: Zuckerman, Weems, Bell, Leger, Stromberg. Noes: None. Abstain: None. Absent: Luce, Paulos, Patel.

BACKGROUND

In 2016, the City Council directed all commissions to submit annual work plans to the City Council at the beginning of each fiscal year.

ENVIRONMENTAL SUSTAINABILITY

The Energy Commission's Work Plan helps advance energy efficiency, clean energy, and the City's greenhouse gas reduction goals.

POSSIBLE FUTURE ACTION

The projects contemplated in the attached work plan could result in recommended actions which, if subsequently adopted by the City Council, could entail a variety of costs and benefits.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

To be determined.

CONTACT PERSON

Billi Romain, Commission Secretary, Department of Planning and Development, (510)
981-7432

Attachments:

1: Berkeley Energy Commission's 2019-20 Work Plan

Berkeley Energy Commission's 2019-2020 Work Plan

MISSION

The Berkeley Energy Commission advises the City Council on climate protection, energy conservation, and renewable energy transition with a priority on equitable leadership and access to energy resources and technology.

STRATEGIC ISSUE AREAS

To carry out its mission, the Energy Commission will work in the following areas over the next year:

- Promoting carbon reductions in the built environment
- Promoting the use of clean, renewable energy
- Reducing transportation energy use
- Advancing zero net energy and environmentally friendly municipal building upgrades and renewable energy installation
- Supporting Berkeley Climate Action Plan and Climate Emergency Declaration
- Value perspectives and narratives of marginalized and underrepresented communities by prioritizing diverse leadership and equitable access to energy sources and emerging technology

ACTIVITIES

Within each of these strategic issue areas, the Commission will focus on the following specific activities over the next year.

Strategic Issue Area: Promoting carbon reductions in the built environment

1. Advance Berkeley's codes, policies, and programs for promoting building energy efficiency, electrification, reduced embodied energy, and green building practices

- *Deliverables:*
 - Track Building Energy Savings Ordinance performance and suggest improvements during current review and evaluation process including development of transfer tax program for energy efficiency and electrification upgrades.
 - Track and comment on other relevant City Council and staff initiatives.
- *Lead Commissioner:* Leger, Stromberg
- *Timing:* Ongoing

2. Support municipal building electrification and energy efficiency upgrades and development of municipal green building programs as outlined in Berkeley Deep Green Building.

- *Deliverables:* Track municipal building remodels and encourage adoption of municipal building green building standards.
- *Lead Commissioner:* Leger
- *Timing:* Ongoing

Strategic Issue Area: Promoting the use of clean, renewable energy

3. Track the development of East Bay Community Energy (EBCE)

- *Deliverables:*
 - Advise the City Council on EBCE decisions and provide comments on their programs, electricity mix, default offerings, and opportunities to advance City priorities.
- *Lead Commissioner:* Stromberg
- *Timing:* Ongoing

4. Encourage resilient renewable energy

- *Deliverables:*
 - Identify Berkeley municipal facilities for participation in EBCE study on critical facilities.
 - Encourage inverters for new installations and islandable inverter replacements through appropriate permit process and education of installers and customers.
- *Lead Commissioner:* Paulos
- *Timing:* Ongoing

Strategic Issue Area: Reducing transportation energy use

5. Track Electric Mobility Roadmap Initiative

- *Deliverables:*
 - Review and provide input on current Electric Mobility Roadmap Initiative.
 - Host stakeholder outreach meetings in Fall 2019
 - Support City efforts to rapidly build out dockless bikeshares, a protected bike lane network, EV charging stations, and bidirectional EV hookups for resilient power
- *Lead Commissioner:* Weems, Schlachter
- *Timing:* Ongoing

6. Support active transit and alternative transportation technologies and infrastructure issues that could reduce fossil fuel vehicle use

- *Deliverables*
 - Create standing liaison with Transportation Commission
 - Support City efforts to build out alternative and emerging technology
 - Support expansion of public transport
- *Lead Commissioner:* Paulos
- *Timing:* Ongoing

Strategic Issue Area: Supporting City wide greenhouse gas reduction plans

7. Support progress on meeting Climate Action Plan and Climate Emergency goals

- *Deliverables:*
 - Track Berkeley progress on greenhouse gas emission reductions.
 - Support new initiatives such as modifications to the Utility User's Tax and other funding sources and a new Climate Action Plan referendum to accelerate greenhouse gas reduction.

- Hold public meetings to study funding mechanisms for climate action
- *Lead Commissioner:* All
- *Timing:* Ongoing

8. Identify relevant state and regional energy and climate policies and programs.

- *Deliverables:* Provide comments for City Council on relevant State and regional energy and climate policies and programs
- *Lead Commissioner:* all
- *Timing:* Ongoing

IMPACTS

1-3 years: Accelerated reductions in greenhouse gas emissions, so that Berkeley, at the very least, achieves its 2020 Climate Action Plan goal of reducing greenhouse gas emissions 33% below 2000 levels while avoiding unintended side effects.

4-6 years: Accelerated reductions in greenhouse gas emissions so that Berkeley is on track, at the very least, to achieve its 2050 Climate Action Plan goal of reducing greenhouse gas emissions 80% below 2000 levels while avoiding unintended side effects.



INFORMATION CALENDAR

October 29, 2019

To: Members of the City Council
 From: Mayor Jesse Arreguin and Councilmember Rigel Robinson
 Subject: Report from Sister City Delegation to Gongju, Republic of Korea

INTRODUCTION

In the spring of 2017, a delegation which included officials from Gongju, South Korea, and local Korean American leaders met with the Mayor's Office regarding the establishment of Sister City relations. Gongju is located in the central South Korea and is home to the Kongju National University, and has a population of similar size to Berkeley. The Gongju city government was interested in expanding partnerships with UC Berkeley, increasing exposure for students and residents to American culture and establishing stronger ties to American officials.

In October 2017, the previous Mayor of Gongju visited Berkeley to discuss establishing a formal Sister City partnership. On February 27, 2018, the Berkeley City Council approved the establishment of a Sister City with Gongju, Republic of Korea. To formalize the Sister City relationship, the current Mayor of Gongju, Kim Jeong-seob invited the Mayor to visit the City of Gongju to sign the Sister City Agreement and to meet with officials.

Mayor Arreguin, Councilmember Robinson and staff in the Mayor's office visited Korea from September 25th – 29th, 2019, including visiting Gongju to sign the Sister City Agreement, meet with Gongju officials, and participate in the Baekje Cultural Festival.

FINANCIAL IMPLICATIONS

\$4,583.93 from the Discretionary Office Budgets of Mayor Arreguin and Councilmember Robinson. These costs covered airfare, food, and transportation. This reimbursement was authorized by Resolution No. 69,094-N.S., "*Approving the Reimbursement of Expenses Relating to travel to Berkeley's Sister City, Gongju, Republic of Korea*". The Resolution permitted up to \$6,136.80 to be reimbursable for travel costs, however due to budgeting the amount spent was approximately 26% under the authorized budget.

BACKGROUND

From September 25th to September 29th, 2019, Mayor Jesse Arreguin and Councilmember Rigel Robinson, Berkeley's first Korean American council member, traveled to South Korea as a goodwill delegation to formally establish the City of

Berkeley's Sister City relationship with the City of Gongju. This report outlines the details of their trip.



Berkeley currently has [17 Sister City relationships](#) throughout the world. The first establishment of a Sister City was in 1967 with Sakai, Japan. The next most recent visit by a delegation from Berkeley to a Sister City was also to Sakai, Japan, in 2017.

Gongju is a historic city in South Korea with a population similar to Berkeley (116,870 in 2013). Gongju, formerly known as Ungjin, was the capital of the Baekje Dynasty from AD 475 - 538, and is home to many national cultural sites, including the Gongsanseong Fortress and the Tomb of King Muryeong, which were designated as UNESCO World Cultural Heritage¹ sites in 2015.

Gongju, South Korea approached Berkeley in 2017 with the request to become a Sister City. The City of Gongju sent two delegations to the City of Berkeley to discuss establishing a Sister City relationship.

¹ <https://whc.unesco.org/en/list/1477/>

On February 27, 2018, the City Council approved the recommendation of the Peace and Justice Commission to establish a Sister City relationship with the municipality of Gongju, in the South Chungcheong Province of the Republic of Korea.

The City Council established a Sister City relationship with the City of Gongju in recognition of the many traits shared by the two cities, in acknowledgment of the large Korean-American community in Berkeley, and to provide new opportunities to experience Korean culture and share ideas that can mutually benefit our two cities. Given the current political climate surrounding the Korean Peninsula, it is even more important to form a relationship that will promote peace and good will.

The Sister City proposal presented by the City of Gongju called for mutual visits of delegations during festivals, for Gongju during their Baekje Cultural Festival, and for Berkeley during the Kite Festival. In addition, the City of Gongju proposed establishing student exchanges between our two cities.

Recently, Mayor Kim Jeong-seob sent an invitation to visit Gongju where they hosted an event for their Sister Cities to exchange ideas, in conjunction with the 65th Annual Baekje Cultural Festival². This event took place from September 26 to September 28, 2019. This visit officially commemorated and solidified our Sister City relationship with Gongju.

Resolution No. 69,094-N.S. was adopted on September 10, 2019 approving the reimbursement of travel expenses up to \$6,136.80 from the discretionary Council Office Budgets of Mayor Arreguin and Councilmember Robinson for the purpose of visiting Berkeley's Sister City, Gongju, Republic of Korea to officially commemorate the establishment of Sister City relations and to participate in the 65th Annual Baekje Cultural Festival.

The City of Gongju, South Korea, provided all lodging, meals, transportation for the City of Berkeley delegation during their time in Gongju. The Offices of Mayor Arreguin and Councilmember Rigel Robinson paid for airfare, ground travel from the airport to Seoul, as well as meals and lodging in Seoul before departure to Gongju City.

The delegation consisting of Mayor Arreguin, Councilmember Robinson and a staff member who speaks basic Korean, allowed our two cities to deepen our Sister City partnership, share ideas on issues mutually beneficial to our two cities, and provide for cultural learning and exchange.

SISTER CITY AGREEMENT SIGNING CEREMONY

On the evening of September 26, 2019, the official Sister City Agreement Signing Ceremony took place. Mayor Arreguin and Councilmember Robinson visited Gongju

² <http://baekje.org/kor/>

City Hall, where they were met by local elected officials, city staff, Gongju residents, and various press and photographers.

The Mayor of Gongju led the Berkeley delegation through the welcome crowd into City Hall, where he pointed out the decorative kite from the Berkeley Kite Festival that had been gifted to the City of Gongju two years prior.



After viewing a promotional video for the City of Gongju, Mayor Kim Jeong-seob led the ceremony with opening remarks. Mayor Kim spoke at length of the importance of our partnership, and how special it was to be hosting Berkeley in Gongju and to share their history and culture traditions.

Following Mayor Kim Jeong-seob's remarks, Mayor Jesse Arreguin gave his remarks, elaborating on the context for Berkeley's visit to Gongju, his appreciation for Mayor Kim's hospitality, and his eagerness for a long and productive partnership. After the Mayor gave his remarks, Councilmember Robinson spoke, in both English and Korean, about his relationship to Korea and the many similarities between Berkeley and Gongju that he had observed already in their short time in the city. Councilmember Robinson emphasized that both cities host premier public institutions of higher education, are working to build more housing, and have rich cultural heritage.





The Vice Mayor of Gongju then gave remarks, and the ceremony transitioned to the presentation of gifts.

The Sister City Signing Ceremony was covered by Express News³ and KPN News⁴, both Korean publications.

HIGH LEVEL GOVERNMENT MEETINGS

Mayor Arreguin and Councilmember Robinson met with a number of high ranking Gongju City Republic of Korea government officials including but not limited to: Mayor

Kim Jeong-seob; Vice Mayor Son Kwon-bae; Chairman Park Byeong-su; Councillor Park Ki-young; Director of Safety and Industry Park Seung-gu; Director General of Culture, Tourism and Welfare Sim Kyoo-duk, and Team Leader of H.R. Yang Hui-jin. They toured Gongju City Hall where the Sister City Signing Ceremony was held, the Agricultural Technology Center, and the GOMA Center.

They had dinner and intimate conversation with the Mayor and his cabinet on the first evening of arrival and with the Vice Mayor and a few select government leaders on the second evening. During these meals, the Mayors, the Councilmember, and the Gongju City staff were able to discuss wide ranging topics including: exchanges between their respective universities, sustainability, infrastructure and transportation policy, housing, and the local impact of recent national political events in Korea.

Throughout various site visits and tours, the delegation, accompanied by city staff, regularly discussed elements of local government that were similar to or differed from each other. In particular, the regularity and seamlessness of public transportation was a subject of frequent discussion. Gongju has a new Bus Rapid Transit system that is being launched, as well as a publicly-owned and free-to-operate bikeshare system. Additionally, the delegation discussed at length the approach to housing density in Gongju. Housing development is focused in a few extremely dense clusters, rather than spread across the city. Furthermore, the delegation consistently noticed new and creative ways to make public spaces more accessible. Much like the tactile paving on curb cuts found in the United States, textured tiles make entire pathways clear to the visually impaired across the campus of Kongju National University and through much of the city.

³ <http://www.expressnews.co.kr/news/articleView.html?idxno=111810>

⁴ http://www.kpnnews.org/bbs/board.php?bo_table=local&wr_id=507499&city=lc_12&gugun=lc_12_02

CULTURAL EXPERIENCES

Mayor Arreguin and Councilmember Robinson were able to experience the Congratulatory Performance that was designed to celebrate Gongju City's accomplishment being listed as a UNESCO World Heritage Site, including a 1,500 person choir to mirror the 1,500 years of the Baekje Kingdom; historical stories depicting the Kingdom's successes; a traditional drum performance; and traditional dance performances. Before the Congratulatory Performance, the Berkeley delegation attended a dinner during which Mayor Arreguin gave remarks to Gongju officials as well as delegations attending the Baekje Cultural Festival from the Philippines and Mexico.

The Mayor and Councilmember Robinson toured the Gongju National Museum and Songsalli Ancient Tomb which is also the Tomb of King Muryeong who ruled the Kingdom of Baekje from 501 to 523. The Tomb was untouched when it was discovered in 1971 allowing archeologists a chance to view the burials exactly as they had been placed 1,448 years ago. The artifacts that were uncovered included the royal diadem of the King and Queen, replicas of which make up the formal gift that Gongju City and Mayor Kim Jeong-seob gave to the Mayor during the Sister City Signing Ceremony.

The Mayor and Councilmember Robinson visited the Magoksa Temple, the head temple of the Jogye Order of Korean Buddhism⁵. They toured the grounds learning about the daily routine of the monks who live on-site year round, bearing witness to the wooden gods who protect the path from the living world to the spirit world, and enjoyed learning about the creation of roofs on the temples.

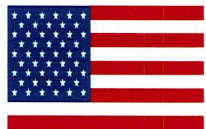
ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects.

CONTACT PERSON

Mayor Jesse Arreguin	510-981-7100
Councilmember Rigel Robinson Council District 7	510-981-7170

⁵ <https://en.wikipedia.org/wiki/Magoksa>



Agreement on Sister City Relationship

Between Gongju City, Republic of Korea and
City of Berkeley, the United States of America



Gongju City of the Republic of Korea and City of Berkeley of the United States of America have agreed as follows to enter the friendship city relationship in order to respect and understand each other's cultural traditions and to make good friendship with each other based on the principles of mutual benefits and equality.

1. Both cities will establish a close friendly relationship based on mutual respect and benefits to promote cooperation between the two cities.
2. Both cities shall respect each other's cultural traditions and support exchange activities of (including but not limited to) administrative, economic, cultural, artistic, and educational natures.
3. Both cities shall fully commit to creating a supportive environment in order to ease the process of mutual exchanges in various areas and forms, such as knowledge exchange, for the mutual benefit and development of the involved parties.
4. Both cities will encourage the relevant departments or organizations to promote mutual cooperation in the mutually agreed areas.

This agreement shall come into effect upon being signed by the mayors of Gongju City, Republic of Korea and Berkeley City, United States of America, being translated into Korean and English, then being exchanged between the two cities.

September 26, 2019



**City of Berkeley,
United States of America**

Mayor Jesse Arreguin



**Gongju City,
Republic of Korea**

Mayor Kim Jeong-seob



대한민국 공주시와 미합중국 버클리시와의

자매결연 협약서



대한민국 공주시와 미합중국 버클리시는 호혜평등의 원칙에 의해 서로의 문화 전통을 존중하고 이해하며 서로 좋은 자매로서 우호관계를 맺기 위하여 자매결연을 체결하고 다음과 같이 합의 하였다.

1. 양 도시의 협력 증진을 위하여 상호 존중과 이익을 바탕으로 긴밀한 우호관계를 확립한다.
2. 양 도시는 문화 전통을 존중하며 행정, 경제, 문화예술, 교육 등 상호 공동 관심분야의 교류활동을 지원한다.
3. 양 도시는 공동이익과 발전을 위하여 지식정보 교환 등 다방면에서 다양한 형태의 교류와 협력을 전개하여 공동 번영과 발전을 촉진하기 위한 우호적인 환경을 조성한다.
4. 양 도시는 관련 부서나 조직으로 하여금 필요시 구체적인 상호협력 분야에 대한 업무를 추진하도록 한다.

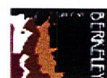
본 협약서는 대한민국 공주시와 미합중국 버클리시의 시장이 서명하며 한글과 영문 각 1부씩 작성 협정서를 교환함으로써 효력을 발생한다.

2019년 9월 26일



대한민국 공주시

시장 김정섭



미합중국 버클리시

시장 Jesse Arreguin



Communications

All communications submitted to the City Council are public record. Communications are not published directly to the City's website. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

City Clerk Department

2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

Records Online

<http://www.cityofberkeley.info/recordsonline>

To search for communications associated with a particular City Council meeting using Records Online:

1. Select Search Type = “Public – Communication Query (Keywords)”
2. From Date: Enter the date of the Council meeting
3. To Date: Enter the date of the Council meeting (this may match the From Date field)
4. Click the “Search” button
5. Communication packets matching the entered criteria will be returned
6. Click the desired file in the Results column to view the document as a PDF