

# AGENDA



## BERKELEY CITY COUNCIL MEETING

**Tuesday, April 20, 2021  
6:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

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

### **PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

*Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.*

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

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/84640742374>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial 1-669-900-9128 or 1-877-853-5257 (Toll Free) and enter Meeting ID: 846 4074 2374. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*To submit an e-mail comment during the meeting to be read aloud during public comment, email [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.*

*Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.*

*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. 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.*

**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 to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, 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. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

## 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." Three members of the City Council must agree to pull an item from the Consent Calendar for it to move 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.*

## Recess Items

- 1. Addition of Subcontractors to Robert E. Boyer Construction, Inc. Contract No. 32000230**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution ratifying the action taken by the City Manager during recess to add the following subcontractors to Contract No. 32000230 with Robert E. Boyer Construction, Inc. for the construction of the Berkeley Tuolumne Camp Project (“Project”): Morrison Home Improvement, John Losoya Construction, Inc., and Dave Smith Construction, Inc.; and approving the finding that this action is necessary to mitigate the impact of significant labor shortages resulting from the effects of COVID-19 on the Project.  
**Financial Implications:** None  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 2. Increase of Authorized Funding: Contact No. 8051 for Police Department Substation, 841 Folger Street/3000 Seventh Street**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution ratifying the action taken by the City Manager during recess to increase the amount of funding authorized under Contract No. 8051 by \$250,000 from \$2,245,726 to \$2,495,726 for rental of the property at 841 Folger Street/3000 Seventh Street.  
**Financial Implications:** Various Funds - \$250,000  
Contact: Jen Louis, Police, (510) 981-5900

## Consent Calendar

- 3. Police Accountability Board – Ordinance Amendment for Leaves of Absence and Alternate Commissioner; Amending BMC Chapter 3.02**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,757-N.S. amending Berkeley Municipal Code Section 3.02.030 to provide for leaves of absence for members of the Police Accountability Board and Berkeley Municipal Code Section 3.02.035 to provide for a designated council-approved alternate to serve when a regular member is on a leave of absence.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Mark Numainville, City Clerk, (510) 981-6900

## Consent Calendar

### 4. Measure T1 Loan

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to loan \$1,500,000 from the Capital Improvement Fund to the Measure T1 Fund in FY 2021 to complete Phase 1 projects and appropriate funds to repay this loan and previous loans from the Parks Tax Fund, Measure BB - Local Streets & Roads Fund, and Mental Health Realignment Fund from Phase 2 Measure T1 bond proceeds once they become available.

**Financial Implications:** See report

Contact: Rama Murty, Budget Office, (510) 981-7000

### 5. Minutes for Approval

**From: City Manager**

**Recommendation:** Approve the minutes for the council meetings of March 1, 2021 (closed), March 9, 2021 (regular), March 16, 2021 (closed and special), March 23, 2021 (regular), March 25, 2021 (special), March 29, 2021 (closed) and March 30, 2021 (closed and regular).

**Financial Implications:** None

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

### 6. Contract No. 9236 Amendment: Freitas Landscaping and Maintenance for Landscaping Services

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to amend contract number 9236 with Freitas Landscaping and Maintenance for landscaping services at the Berkeley Animal Shelter at Dona Spring Animal Shelter by adding \$25,000 through fiscal year 2024, increasing the total contract to \$74,000 pending budget approval in fiscal years 2022-2024.

**Financial Implications:** General Fund - \$25,000

Contact: Paul Buddenhagen, City Manager's Office, (510) 981-7000

### 7. Contract No. 105938-1 Amendment: Koefran Industries for Animal Disposal Services

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to extend and increase the current contract with Koefran Industries to remove and dispose of deceased animals for Berkeley Animal Care Services (BACS). The increase will be an additional \$110,000 through June 30, 2026, for a total contract amount not to exceed \$231,600 and subject to the City's Annual Appropriation Process.

**Financial Implications:** General Fund - \$110,000

Contact: Paul Buddenhagen, City Manager's Office, (510) 981-7000

## Consent Calendar

- 8. Contract No. 3210053 Amendment: Orsolya Kuti, DVM for services at the Dona Spring Animal Shelter**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 3210053 with Orsolya Kuti, DVM adding \$4,800 to provide free spay and neuter surgeries at the Dona Spring Animal Shelter to eligible low/no-income and homeless pet owners who reside in Berkeley, Albany, Emeryville or Piedmont. Authorize the receipt of additional donations up to a total of \$40,000 over the three year period of FY 2021, FY2022 and FY2023, for a total contract amount not to exceed \$220,000.  
**Financial Implications:** See report  
Contact: Paul Buddenhagen, City Manager's Office, (510) 981-7000
- 9. Contract No. 3210022 Amendment: Michael Arcega for San Pablo Park Measure T1 Public Art Commission**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 3210022 with Michael Arcega for additional artwork elements costing up to \$9,936 for a total contract amount not to exceed \$219,936. This is for the public art commission project located at San Pablo Park and funded by Measure T1.  
**Financial Implications:** Measure T1 Public Art Fund - \$9,936  
**Contact:** Eleanor Hollander, Economic Development, (510) 981-7530
- 10. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on April 20, 2021**  
**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:** \$1,581,000  
Contact: Henry Oyekanmi, Finance, (510) 981-7300

## Consent Calendar

- 11. Predevelopment Funding Recommendations: 2024 Ashby Avenue and 1708 Harmon Street**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Reserving predevelopment funding in the amount of: a) \$1,198,960 for Community Housing Development Corporation/St. Paul AME's new construction development of affordable housing at 2024 Ashby Avenue; and b) \$1,056,400 for Community Housing Development Corporation/Ephesians Church of God in Christ (ECOGIC)'s new construction development of affordable housing at 1708 Harmon Street; and 2. Authorizing the City Manager, or her designee, to execute all original or amended documents or agreements to effectuate this action.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 12. Revenue Contract: Alameda County Behavioral Health Care Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with Alameda County Behavioral Health Care Services (ACBH) for the provision of mental health services, including Medi-Cal, Medicare, Educationally Related Mental Health Services (ERMHS), and Early Periodic Screening, Diagnosis and Treatment (EPSDT) billing and reimbursement for through June 30, 2021.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 13. Shelter Plus Care Program Renewal Grants**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to receive funds and execute any agreements and amendments resulting from the renewal of the following grants: 1. Two Shelter Plus Care grants from the U.S. Department of Housing and Urban Development (HUD): a) \$4,124,485 for the Supportive Housing Collaborative for the period June 1, 2021 through May 31, 2022; b) \$2,411,026 for the COACH Project grant for the period of January 1, 2022 through December 31, 2022; and 2. One grant from the County of Alameda for \$881,046 to provide tenant-based rental assistance to individuals who are chronically homeless and disabled. Some assistance may be further extended to individuals' families as part of the supported household on an individual case by case basis for the period of March 1, 2021 through February 28, 2022.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

## Consent Calendar

- 14. Contract No. 32000082 Amendment: Mar Con Builders, Inc. for Live Oak Community Center Seismic Upgrade Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000082 with Mar Con Builders, Inc. for the Live Oak Community Center Seismic Upgrade Project, increasing the contract amount by \$160,562 for a total amount not to exceed of \$6,066,230.  
**Financial Implications:** Parks Tax Fund - \$160,562  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 15. Contract No. 32000274 Amendment: Suarez and Munoz Construction, Inc. for San Pablo Park Playground and Tennis Court Renovation Project**  
**From: City Manager**  
**Recommendation:** Adopt a resolution authorizing the City Manager to execute an amendment to Contract No. 32000274 with Suarez and Munoz Construction, Inc. for the San Pablo Park Playground and Tennis Court Renovation Project, increasing the amount by \$125,000 for an amended total amount not to exceed \$2,094,056.  
**Financial Implications:** Parks Tax Fund - \$125,000  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 16. Contract: ERA Construction Inc. for King School Park Play Area Renovation Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Approving the plans and specifications for the King School Park Play Area Renovation Project, Specification No. 21-11435-C; 2. Rejecting the lowest bid from Kompan California Inc. as non-responsive; 3. Accepting the bid of the lowest responsive and responsible bidder, ERA Construction Inc.; and 4. 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 ERA Construction Inc. for the King School Park Play Area Renovation Project at 1700 Hopkins Street, Berkeley, CA 94702, in an amount not to exceed \$650,438, which includes a contract amount of \$542,032 and a 20% contingency in the amount of \$108,406.  
**Financial Implications:** Parks Tax Fund - \$650,438  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

## Consent Calendar

17. **Contract: O.C. Jones & Sons, Inc. for the Berkeley Marina Roadway Improvements Project: University Avenue (West Frontage Road to Marina Boulevard), Marina Boulevard, and Spinnaker Way Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Approving the plans and specifications for the Berkeley Marina Roadway Improvements Project: University Avenue (West Frontage Road to Marina Boulevard), Marina Boulevard, and Spinnaker Way Project (Bid Specification No. 20-11388-C); 2. Accepting the bid of O.C. Jones & Sons, Inc. as the lowest responsive and responsible bidder on the Project; 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 O.C. Jones & Sons, Inc., for the Berkeley Marina Roadway Improvements Project: University Avenue (West Frontage Road to Marina Boulevard), Marina Boulevard, and Spinnaker Way Project, in an amount not to exceed \$6,175,186, which includes a contract amount of \$5,369,727 and a 15% contingency in the amount of \$805,459.  
**Financial Implications:** Various Funds - \$6,175,186  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
18. **Grant Application: California Proposition 68 Statewide Parks Program for New Park Development at Selected Santa Fe Right-of-Way Parcels**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to: 1. Submit a grant application in the amount of up to \$8,000,000 to the California Proposition 68 Statewide Parks Program for new park development at selected Santa Fe Right-of-Way parcels; 2. Accept any grants; 3. Execute any resulting grant agreements and any amendments; and 4. Authorizing the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
19. **Recommendation to Incorporate Hate Crimes Against Persons with Homeless Status in Improving Hate Crime Reporting and Response**  
**From: Homeless Commission**  
**Recommendation:** That Council refer to the City Manager to develop a targeted approach, towards persons with homeless status, to improving hate crime reporting and response consistent with the other approaches being developed for other populations under the City of Berkeley's Improving Hate Crimes Reporting and Response legislation passed by Council on November 17, 2020.  
**Financial Implications:** See report  
Contact: Josh Jacobs, Commission Secretary, (510) 981-5400



## Consent Calendar

**20. Measure O Notice of Funding Availability (NOFA) for BUSD-Sponsored Educator Housing**

**From: Housing Advisory Commission**

**Recommendation:** Adopt a Resolution to refer to the City Manager to release a Notice of Funding Availability (NOFA) for a Berkeley Unified School District (BUSD)-employee housing development sponsored by the BUSD, to be funded from Measure O Bond funds, relying on the City's Housing Trust Fund Guidelines but allowing tenant incomes up to 120% of Area Median Income, and reviewed by the Measure O Bond Oversight Commission (MOBOC).

**Financial Implications:** See report

Contact: Jenny Wyant, Commission Secretary, (510) 981-5400

## Council Consent Items

**21. Contract No. 9369 Amendment: Badawi & Associates, Certified Public Accountants for Professional Auditing Services**

**From: Mayor Arreguin (Author)**

**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 9369 with Badawi & Associates to perform annual audits of the city's financial statements and to perform annual compliance audits required by the Single Audit Act of 1984 (as amended), for fiscal years 2021 (FY21) and 2022 (FY22), in the amount of \$171,330 for FY21 and \$171,330 for FY22. Increasing the contract value by \$372,660 which includes a \$30,000 contingency for new regulatory reporting including the Measure T1 Audit. This will increase the contract value from \$1,243,896 to \$1,616,556 for the period May 6, 2020 to June 30, 2023.

**Financial Implications:** Various Funds - \$372,660

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

**22. Budget Referral: Remediation Plan for Lawn Bowling Green and North Bowling Green**

**From: Councilmember Taplin (Author), Mayor Arreguin (Co-Sponsor)**

**Recommendation:** Refer to the budget process the development of a remediation plan, with further testing and cost estimate, for the Berkeley Lawn Bowling Green at 2270 Acton Street and the North Bowling Green at 1324 Allston Way.

**Financial Implications:** See report

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

**23. Support for AB 1401: Parking Reform**

**From: Councilmember Taplin (Author), Councilmember Kesarwani (Co-Sponsor)**

**Recommendation:** Send a letter to Assemblymember Laura Friedman, State Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Assembly Bill 1401, which would eliminate parking requirements for housing and commercial buildings near transit and in low-VMT areas.

**Financial Implications:** None

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

## Council Consent Items

- 24. Support for SB-519: Controlled Substances**  
**From: Councilmember Taplin (Author)**  
**Recommendation:** Send a letter of support for Senator Wiener’s Senate Bill 519, which would decriminalize psilocybin, psilocyn, MDMA, DMT, ketamine, mescaline, and ibogaine; expunge criminal records for use and possession of these substances; and establish a commission to provide recommendations to the state legislature on therapeutic uses.  
**Financial Implications:** None  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
- 25. Urge the AC Transit Board of Directors to Restore the 80-Ashby/Sixth Street Bus Line**  
**From: Councilmember Taplin (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Harrison (Co-Sponsor)**  
**Recommendation:** Send a letter to the AC Transit Board of Directors urging the restoration of the 80-Ashby/Sixth Street bus line to its pre-pandemic level of service.  
**Financial Implications:** See report  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
- 26. Letter in Support of AB 816 “State and Local Agencies: Homelessness Plan”**  
**From: Councilmember Bartlett (Author), Councilmember Taplin (Co-Sponsor)**  
**Recommendation:** That the Mayor of Berkeley and Members of City Council supports AB 816 “State and Local Agencies: Homelessness Plan” by sending a letter of support to Assemblymember David Chiu, State Senator Nancy Skinner, and Assemblymember Buffy Wicks to express the City of Berkeley’s support for AB 816.  
**Financial Implications:** None  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
- 27. Letter of Opposition to the Federal Aviation Administration’s Proposal to Shift the WNSDR Commercial Airliner Flight Corridor Directly Over Residential Neighborhoods in Berkeley, Richmond, El Cerrito, and Albany**  
**From: Councilmember Bartlett (Author), Councilmember Taplin (Co-Sponsor), Councilmember Harrison (Co-Sponsor)**  
**Recommendation:** That the Mayor of Berkeley and Members of the City Council oppose the Federal Aviation Administration’s (FAA) proposal to re-route commercial airline traffic (the WNSDR arrival flight path to Oakland International Airport) directly over residential neighborhoods in Berkeley, Richmond, El Cerrito, and Albany beginning in October 2021. The Council should send letters to Rep. Barbara Lee, Rep. Mark DeSaulnier, Sen. Dianne Feinstein, Sen. Alex Padilla, Governor Gavin Newsom, State Senator Nancy Skinner, Assemblymember Buffy Wicks, US Secretary of Transportation Pete Buttigieg, the FAA’s Western Pacific Regional Director, Raquel Girvin, and the Oakland Airport Community Management Noise Forum facilitator, Mike McClintock.  
**Financial Implications:** Staff time  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

## Council Consent Items

28. **Resolution in Support of Senate Bill 271, the Sheriff Democracy and Diversity Act, to Allow for More Diverse and Democratic Sheriff Elections**  
**From: Councilmember Harrison (Author), Councilmember Robinson (Author), Councilmember Bartlett (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution in support of Senate Bill 271, the Sheriff Democracy and Diversity act, to allow for more diverse and democratic Sheriff elections. Send copies of the resolution to Governor Newsom and State Senator Scott Wiener.  
**Financial Implications:** Staff time  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
29. **Support for AB 1199: Homes for Families and Corporate Monopoly Transparency Excise Tax**  
**From: Councilmember Harrison (Author)**  
**Recommendation:** Adopt a Resolution proclaiming support for AB 1199, including support for the legislation in the 2020-2021 State Legislative Program, and sending copies of a letter to Assemblymember Mike Gipson, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Assembly Bill 1199, which would create a database of rental properties, levy a tax on the rental profits of some people or entities holding many properties, and use the funds to support services for tenants and small landlords.  
**Financial Implications:** Staff time  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
30. **Budget Referral: Solano Avenue Revitalization Plan**  
**From: Councilmember Hahn (Author), Councilmember Harrison (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)**  
**Recommendation:** Refer up to \$300,000 to the FY2022-FY2023 Budget Process for the development of a two-part Solano Avenue “Master” Revitalization Plan; Part A for the Upper/Eastern end of Solano Avenue and Part B for mid-corridor blocks within the City of Berkeley, to coordinate with the City of Albany’s mid-corridor Solano Avenue Reconfiguration Plan.  
**Financial Implications:** See report  
Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

## Council Consent Items

### 31. **Personal Liability Protection for Small Businesses Impacted by COVID-19**

**From: Councilmember Hahn (Author)**

**Recommendation:**

1. Adopt an urgency ordinance adding Berkeley Municipal Code (BMC) Chapter 13.113, relating to personal liability in commercial leases during the COVID-19 pandemic; declaring the urgency thereof; and declaring that this ordinance shall take effect immediately, in order to protect the health, safety, and economic wellbeing of the people of Berkeley.

2. Direct the City Manager to conduct outreach to all commercial tenants regarding any protections enacted by the City Council, with a particular focus on businesses that were required to stop serving food or beverages (e.g., restaurants, bars); close to the public (e.g., hair salons, barbershops, tattoo parlors); cease operations (e.g., gyms, fitness centers); or sharply limit operations (e.g., schools, retail shops, nurseries) due to the COVID-19 crisis.

**Financial Implications:** See report

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

### 32. **Support for AB 455: Bay Bridge Transit-Only Lane**

**From: Councilmember Robinson (Author), Councilmember Kesarwani (Co-Sponsor)**

**Recommendation:** Send a letter to Assemblymember Rob Bonta, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Assembly Bill 455, which would authorize the Bay Area Toll Authority, in consultation with the Department of Transportation, to designate transit-only traffic lanes on the San Francisco-Oakland Bay Bridge.

**Financial Implications:** None

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

## 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 use the "raise hand" function 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. 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 – New Business

### 33. City Council Rules of Procedure and Order Revisions

**From: City Manager**

**Recommendation:** Adopt a Resolution revising the City Council Rules of Procedure and Order to add temporary rules for the legislative process during the COVID-19 declared emergency; sunset the temporary process to read written comments at meetings; and rescinding any preceding amendatory resolutions.

**Financial Implications:** None

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

## Council Action Items

### 34. Requesting the California State Legislature to introduce actions to value human life and to condemn racial injustice and police brutality

**From: Councilmember Davila (Author)** *(Reviewed by the Health, Life Enrichment, Equity and Community Committee)*

**Recommendation:**

1. Adopt a resolution requesting the California State Legislature to introduce legislation incorporating recommendations from the community to value human life and to condemn racial injustice and police brutality.

2. Send copies of this resolution to State Assemblymember Buffy Wicks, State Senator Nancy Skinner, and Governor Gavin Newsom.

*Policy Committee Recommendation: Forward the item to Council with a negative recommendation given that there are a number of questions as to some of the points of the resolution including the purview of the Legislature, legal questions, and feasibility. The Committee recommends that the Council refer to the Public Safety Committee to consider the state Police Officer's Bill of Rights and possible subsequent action by the City Council. Further, that the office of Councilmember Taplin will look into specific state bills on police reform and public safety issues to determine which bills warrant a letter of support from the City Council.*

**Financial Implications:** See report

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

### 35. Referral to the Planning Commission to Establish a Zoning Overlay at the Pacific Steel Casting Property

**From: Councilmember Kesarwani (Author), Councilmember Taplin (Co-Sponsor)**

**Recommendation:** Refer to the Planning Commission to create a zoning overlay at the Pacific Steel Casting (PSC) property in West Berkeley—currently zoned Manufacturing (M) and redesignate it as Mixed Use - Light Industrial (MULI) due to the unique issues of public concern associated with this property (described below); specifically, include in the PSC zoning overlay allowances to enable all MULI uses and override any existing constraints in the Berkeley Municipal Code for Zoning (Title 23) on such MULI uses for the PSC property.

**Financial Implications:** Staff time

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

## Council Action Items

36. **\*\*\*Removed from Agenda by Councilmember Taplin\*\*\* Local Parks Option for the Percentage for Public Art on Private Projects**  
**From: Councilmember Taplin (Author)**  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
37. **Refer to the City Manager to Prioritize Municipal Fleet Modal Shift to Electric Bicycles and Other Forms of Zero-Emissions Mobility Where Feasible**  
**From: Councilmember Harrison (Author)**  
**Recommendation:** Refer to the City Manager to prioritize municipal fleet modal shift to electric bicycles and other forms of zero-emissions mobility, where feasible, as part of ongoing efforts to achieve a zero-emissions fleet by 2030.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

## Information Reports

38. **Civic Arts Commission Annual Work Plan 2021**  
**From: Civic Arts Commission**  
Contact: Jennifer Lovvorn, Commission Secretary, (510) 981-7530
39. **Community Health Commission 2021 Work Plan**  
**From: Community Health Commission**  
Contact: Roberto Terrones, Commission Secretary, (510) 981-5400
40. **Disaster and Fire Safety Commission Work Plan 2021**  
**From: Disaster and Fire Safety Commission**  
Contact: Keith May, Commission Secretary, (510) 981-3473
41. **Measure O Bond Oversight Committee Work Plan FY 2021**  
**From: Measure O Bond Oversight Committee**  
Contact: Jenny Wyant, Commission Secretary, (510) 981-5400

## 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 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 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>

**COMMUNICATION ACCESS INFORMATION:**

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.



Captioning services are provided at the meeting, on B-TV, and on the Internet.

*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 April 8, 2021.*

Mark Numainville, City Clerk

**Communications – April 20, 2021**

*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.*

**Transient Occupancy Tax Allocated to the Marina Fund**

- 1. Gordon Wozniak

## **Communications**

### **Illegal Encampment at the Telegraph-Channing Mall**

2. Kirstie Bennett, Jeffrey Goldberg and Chelsea Bennet Whitney, on behalf of the Shops at Telegraph-Channing Mall

### **Gilman and the I-80 Interchange**

3. David Lerman
4. Carol Crossley, on behalf of the Alameda County Transportation Commission

### **Hopkins Street Parking**

5. Merle Weiner
6. Carol Hirth
7. Jan Austerlitz
8. Councilmember Hahn (2)
9. Friends of Five Creeks
10. Farid Javandel, on behalf of the City of Berkeley
11. David Lerman
12. Julie Ross
13. David Pope

### **Berkeley Asphalt**

14. Mike Perlmutter, on behalf of Clean AIR Berkeley (3)
15. Melanie McLean, on behalf of the City Manager

### **5G + Cell Antennas**

16. Max Ventura (2)
17. Gene Herman
18. Frances Hillyard

### **Homelessness**

19. Kai Horng
20. Jamie Greenblatt (2)
21. Kristen Barneich
22. Kathy Krebs
23. Chris Ahoy, on behalf of the Berkeley Rotary Club

### **Bicycle and Pedestrian Safety**

24. Ed Reid
25. Beatriz Motta
26. Aviv Schifrin
27. Tom Lent
28. Bhima Sheridan
29. Sean McLaughlin
30. Noah Budnick (2)
31. Councilmember Taplin
32. Teresa Clarke



## **Communications**

- 33. Elise Brewster
- 34. Dana Hymel
- 35. MaryAnn Furda
- 36. David Lerman
- 37. Jeffrey Black
- 38. Katy Love

## **Robberies near Ellsworth**

- 39. Sabina McMurtry
- 40. Kris Muller
- 41. Sally Hughes
- 42. Carol Ness
- 43. Councilmember Robinson

## **Vaccinations**

- 44. Gerald Maxey
- 45. City of Berkeley COVID-19 Information Services
- 46. Bryce Nesbitt
- 47. Linda Franklin

## **Redistricting**

- 48. Dona Bretherick
- 49. Councilmember Taplin
- 50. Mark Numainville, City Clerk

## **Zoning and Housing**

- 51. Avram Gur Arye
- 52. Susan Kirsch
- 53. Diana Bohn
- 54. Livable California
- 55. Christopher Hudson
- 56. Sally Hindman
- 57. Curry Barber
- 58. Linda Maio
- 59. Barbara Gilbert

## **Green Monday**

- 60. Nilang Gor (2)
- 61. Melanie McLean, on behalf of the City of Berkeley

## **School Reopening's**

- 62. Maxine Skaggs Kennedy

## **Nuclear Ban Treaty**

- 63. Gar Smith

## **Communications**

### **Cal Sailing Considerations for the Berkeley Marina Area Specific Plan (BMASP) Project**

64. Camille Antinori, on behalf of Cal Sailing

### **Stop Asian Hate Demonstration**

65. Jennifer Rose

### **Cesar Chavez Park Conservancy Grant**

66. Igor Tregub, on behalf of the Sierra Club Northern Alameda County Group

### **Marijuana and Tobacco Smoke in Multi-Unit Housing**

67. Carol Denney

### **National Crime Victims' Rights Week Proclamation Request**

68. Michelle Joya, on behalf of the Alameda County District Attorney's Office

### **Milk Condition**

69. Phil Allen

### **ZAB Use Permit for 3031 Telegraph Avenue**

70. Steve Medbery

### **1900 Fourth Street Fencing**

71. Stephanie Manning

### **Climate Emergency**

72. Thomas Lord

### **Support Rooftop Solar**

73. Kathleen Giustino (2)

### **PRC and Hiring a New Chief of Police**

74. Katherine Lee, on behalf of the Police Review Commission

### **Police Violence**

75. Ris Coto

76. Shellie Wharton

### **Quake Scenario Exercise**

77. David Peattie

### **On-Demand Mobile App**

78. Sandy

### **BART Housing Development**

79. 11 similarly-worded form letters (BART Development)

## Communications

- 80.37 similarly-worded form letters (North Berkeley BART Development)
81. Laura Stevens
82. Forest Kaser
83. Toni Casal
84. Vicki Sommer (3)
85. Stephen Sperber and Roberta Silverstein
86. Eric Johnson (2)
87. Leah Levy
88. Chimey Lee
89. David Brandon
90. Albert Buixade Farre
91. Serena Lim and Family
92. Mariko Nobori
93. Todd Jailer
94. Friends of Adeline
95. Anna Cederstav
96. Tom Athanasiou and Rachel Sommerville
97. Janet Byron
98. Randy Shaw
99. Lee Bishop
100. Stephen Dalton
101. Robin Henke
102. Elie Hassenfeld
103. Jenny Johnston
104. Nritkaar Dhesi
105. David Brandon

### URL's Only

106. 11 russbumper
107. Vivian Warkentin

### 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.





Office of the City Manager

**RECESS ITEM**  
CONSENT CALENDAR  
 April 20, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront  
 Subject: Addition of Subcontractors to Robert E. Boyer Construction, Inc. Contract No. 32000230

RECOMMENDATION

Adopt a Resolution ratifying the action taken by the City Manager during recess to add the following subcontractors to Contract No. 32000230 with Robert E. Boyer Construction, Inc. for the construction of the Berkeley Tuolumne Camp Project (“Project”): Morrison Home Improvement, John Losoya Construction, Inc., and Dave Smith Construction, Inc.; and approving the finding that this action is necessary to mitigate the impact of significant labor shortages resulting from the effects of COVID-19 on the Project.

FISCAL IMPACTS OF RECOMMENDATION

There are no fiscal impacts associated with this recommendation.

CURRENT SITUATION AND ITS EFFECTS

On January 24, 2020 the City issued a request for bids for the reconstruction of Berkeley Tuolumne Camp (Spec No. 20-11362-C). The City received four bids. On April 14, 2020, City Council awarded the contract to the lowest responsible and responsive bidder, Robert E. Boyer Construction, Inc. (“Boyer”), Contract No. 32000230. Construction began May 26, 2020, and is anticipated to last about two years.

Boyer originally anticipated that it would self-perform all framing work, and did not include any framing subcontractors in its original subcontractors list (Document 00 4330). However, framing work on the Berkeley Tuolumne Camp Project has been seriously impacted by labor shortages resulting from the effects of COVID-19. Public Contract Code Section 4109 allows the addition of subcontractors in excess of one-half of one percent of the Contractor’s total bid as to which no subcontractor was designated in the original bid after a finding by the awarding authority in cases of public emergency or necessity.

Addition of Subcontractors to Robert E. Boyer Construction, Inc. Contract  
Berkeley Tuolumne Camp Construction Project

**RECESS ITEM**  
CONSENT CALENDAR  
April 20, 2021

The framing subcontractors proposed to be added to Boyer's subcontractors list include Morrison Home Improvement, John Losoya Construction, Inc. and Dave Smith Construction, Inc.

#### BACKGROUND

In August 2013, the California Rim Fire destroyed the Berkeley Tuolumne Camp (BTC), a residential family camp located within the Stanislaus National Forest. The closure of BTC has significantly impacted the Department of Parks, Recreation and Waterfront 'Camps Fund', which historically depended on the successful programming at BTC to support the funding of camps programs within the City, as well as capital needs. Due to insurance coverage of business interruption losses and to successful re-organization of Camps programming, the Camps fund is projected to stay positive through FY22, however it has been unable to contribute to capital funding since the Rim Fire (historically \$250,000 per year). Completing the Project on schedule will allow Camp to re-open in 2022. BTC revenue in 2022 is critical to the functioning of the Camps fund and City-wide Camp programming.

On January 24, 2020 the City issued a request for bids for the reconstruction of Berkeley Tuolumne Camp. Bids were due on March 12, 2020. The California state-wide "Stay at Home" order due to COVID-19 was issued on March 19, 2020. On April 14, 2020, City Council awarded the contract to the lowest responsible and responsive bidder, Robert E. Boyer Construction, Inc. Boyer could not have reasonably foreseen the impacts of the COVID-19 emergency on the Project at the time of bid. Public Contract Code section 4109 provides that "[s]ubletting or subcontracting of any portion of the work in excess of one-half of 1 percent of the prime contractor's total bid as to which no subcontractor was designated in the original bid shall only be permitted in cases of public emergency or necessity, and then only after a finding reduced to writing as a public record of the awarding authority setting forth the facts constituting the emergency or necessity."

On March 15, 2021, Boyer Construction requested the addition of framing subcontractors to its subcontractor list in order to mitigate the impact of the COVID-19 emergency to its labor force. Framing work is on the critical path for Project completion. The framing subcontractors proposed to be added to Boyer's subcontractors list include Morrison Home Improvement, John Losoya Construction, Inc. and Dave Smith Construction, Inc.

#### ENVIRONMENTAL SUSTAINABILITY

This recommendation has no impact on the environmental sustainability of the Project.

#### RATIONALE FOR RECOMMENDATION

Boyer Construction, Inc. could not have reasonably anticipated the impacts of the COVID-19 emergency on the Project. The addition of framing subcontractors is necessary to mitigate the impacts of COVID-19 on the Project.

#### ALTERNATIVE ACTIONS CONSIDERED

No alternatives were considered.

Addition of Subcontractors to Robert E. Boyer Construction, Inc. Contract  
Berkeley Tuolumne Camp Construction Project

**RECESS ITEM**  
CONSENT CALENDAR  
April 20, 2021

CONTACT PERSON

Scott Ferris, Director, PRW, 981-6700

Liza McNulty, Project Manager, PRW, 981-6437

Attachments:

1: Resolution

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

RATIFYING THE ACTION TAKEN BY THE CITY MANAGER DURING RECESS TO  
ADD SUBCONTRACTORS TO ROBERT E. BOYER CONSTRUCTION, INC.  
CONTRACT

WHEREAS, an invitation for bids was duly advertised and four bids were opened on March 12, 2020 and Robert E. Boyer Construction, Inc. was the apparent low bidder; and

WHEREAS, on April 14, 2020 the City of Berkeley authorized the City Manager to execute a contract and any amendments, extension, and/or change orders until completion of the Project in accordance with the approved plans and specifications with Robert E. Boyer Construction, Inc. for the Berkeley Tuolumne Camp Project; and

WHEREAS, the impacts of the COVID-19 emergency could not have been reasonably foreseen at the time of bid; and

WHEREAS, the addition of subcontractors to the Robert E. Boyer, Inc. Contract No. 32000230 is necessary to mitigate the labor impacts of COVID-19 on the Project.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council ratifies the action taken by the City Manager during recess to add the following subcontractors to the Robert E. Boyer Construction, Inc. Contract No. 32000231: Morrison Home Improvement, John Losoya Construction, Inc. and Dave Smith Construction, Inc.; and

BE IT FURTHER RESOLVED that the Council of the City of Berkeley approves the finding that this action is necessary to mitigate the impact of significant labor shortages resulting from the effects of COVID-19 on the Project.





Office of the City Manager

**RECESS ITEM**  
CONSENT CALENDAR  
 April 20, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Jennifer Louis, Interim Chief of Police  
 Subject: Increase of Authorized Funding: Contract No. 8051 for Police Department Substation, 841 Folger Street/3000 Seventh Street

RECOMMENDATION

Adopt a Resolution ratifying the action taken by the City Manager during recess to increase the amount of funding authorized under Contract No. 8051 by \$250,000 from \$2,245,725.99 to \$2,495,725.99 for rental of the property at 841 Folger Street/3000 Seventh Street.

NEGATIVE EFFECT IF ACTION IS DELAYED UNTIL AFTER COUNCIL RECESS

The Police Department will not be able to pay the rent for its Traffic Substation at 841 Folger Street/3000 Seventh Street since the authorized amount of funding for Contract No. 8051, and a subsequent increase of funding in the amount of \$250,000, have been expended.

FISCAL IMPACTS OF RECOMMENDATION

This request involves an additional increase of authorized funding in the amount of \$250,000 to Contract No. 8051 for a not to exceed total of \$2,495,725.99. The increased funding will allow the City to continue to pay the current monthly rent of \$18,225.00 for the next twelve months if needed.

Expenditures for the lease will continue to be funded by the General Fund (40%), and the Parking Meter Fund (60%).

CURRENT SITUATION AND ITS EFFECTS

The Police Department is preparing to move its Traffic Substation from 841 Folger Street/3000 Seventh Street to 125/127 University Avenue. Planned construction of a parking lot and to the building of 125/127 University Avenue, including required ADA upgrades, were initially scheduled for completion in February 2020. The Police Department's lease with Sasha Shamszad for the Traffic Substation at 841 Folger Street/3000 Seventh Street is currently on a month to month basis. At this time, the cumulative contract amount, including a subsequent \$250,000 increase of authorized funding, are nearly depleted. The monthly rent of \$18,225.00 is currently paid through March 2021 but there are not enough funds to pay the April 2021 rent without an additional increase in authorized funding.

This item seeks Council's approval that will authorize the City Manager to increase the authorized funding amount for Contract No. 8051 by another \$250,000. The increased funding authorization will allow the Police Department to continue to pay the monthly rent for the use of 841 Folger Street/3000 Seventh Street until the work at the new facility has been completed.

#### BACKGROUND

The Police Department Substation moved from 3140 Martin Luther King Jr Way to 841 Folger Street in July of 2009. In February of 2018, the Berkeley Police Department began exploring whether it would make sense to move the location of the Traffic Substation when the current lease expired in July of 2019. After reviewing several different options the decision was made to move to 125/127 University Avenue.

City Staff identified several modifications to 125/127 University Avenue that would need to be completed prior to the move. These modifications included upgrading the restroom facilities to comply with ADA rules and building a fenced parking area for City Vehicles.

These projects were scheduled for completion in February of 2020 but were delayed. The building improvements began in January 2021 but lead times for materials have delayed that part of the construction. A contractor for the parking lot construction has been identified but the start and estimated completion dates have not been determined.

#### ENVIRONMENTAL SUSTAINABILITY

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

#### RATIONALE FOR RECOMMENDATION

Due to the delay of the required construction projects, the move from one facility to another cannot happen at this time. This amendment will secure an additional \$250,000 of funding through March of 2022 or until the construction is completed.

#### ALTERNATIVE ACTIONS CONSIDERED

None at this time. Traffic Bureau staff plan to move to 125/127 University Avenue as soon as reasonably possible after completion of the construction projects. To that end, the operational needs of the Traffic Bureau are being simultaneously pursued to avoid any further delays.

#### CONTACT PERSON

Jennifer Louis, Interim Chief of Police, 981-5700

Attachments:

1: Resolution

RESOLUTION NO. 69,445-N.S.

INCREASE OF AUTHORIZED FUNDING: CONTRACT NO. 8051 FOR POLICE DEPARTMENT SUBSTATION, 841 FOLGER STREET/3000 SEVENTH STREET

WHEREAS, The Berkeley Police Department is currently leasing 841 Folger Street/3000 Seventh Street for its Traffic Substation on a month to month basis until construction is completed at 125/127 University Avenue; and

WHEREAS, on July 15, 2009, the City entered into a contract with Sasha Shamszad to lease the property at 841 Folger Street/3000 Seventh Street for five years for a total amount not to exceed \$892,351.27 (Contract No. 8051) for a contract period expiring July 15,2014; and

WHEREAS, on June 27, 2014, the City exercised its right to a five year option term to lease the property at 841 Folger Street/3000 Seventh Street for a total amount not to exceed \$1,103,374.72 (Contract No. 8051A) ; and

WHEREAS, Contract No. 8051 contains a holdover clause that allows the tenancy to continue on a month to month basis terminable on (30) days' Notice given at any time by either party; and

WHEREAS, in 2020, Contract No. 8051 reached the authorized total not to exceed amount of \$1,995,725.99 and an additional \$250,000 (\$2,245,725.99 total) was needed to continue paying rent at 841 Folger Street/3000 Seventh Street until the construction was completed at 125/127 University Avenue; and

WHEREAS, in March 2021, additional construction delays have pushed the projected move in date at 125/127 University Avenue and an additional \$250,000 is needed to continue paying rent at 841 Folger Street/3000 Seventh Street until the construction is completed at 125/127 University Avenue; and

WHEREAS, funds for the additional rent costs in the amount of \$250,000 will be provided from the following funds: General Fund (40%), and the Parking Meter Fund (60%).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council ratifies the action taken by the City Manager to execute an amendment to Contract No. 8051 with Sasha Shamszad, in an amount of \$250,000 for a total contract amount not to exceed \$2,495,725.99 for rental of the property at 841 Folger Street/3000 Seventh Street.



## ORDINANCE NO. 7,757-N.S.

## LEAVES OF ABSENCE AND ALTERNATE COMMISSIONER FOR THE POLICE ACCOUNTABILITY BOARD; AMENDING BERKELEY MUNICIPAL CODE CHAPTER 3.02

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

Section 1. That Berkeley Municipal Code Section 3.02.030 is amended to read as follows:

**3.02.030 Leaves of absence.**

The following circumstances shall not count as absences for the purposes of Section 3.02.020:

A. A member of a board, commission or committee may be granted a leave of absence not to exceed three months by the appointing Councilmember, the appointing Commission, or the Council, when the appointment is made by the Council as a whole, and a temporary vacancy shall thereupon exist for the period of such leave of absence. Notice of the leave of absence must be filed with the City Clerk prior to the absence.

1. During the period of such temporary vacancy, the appointing Councilmember, the appointing Commission, or the Council, when the appointment is made by the Council as a whole, may fill such vacancy by a temporary appointment to said commission; provided, however, that the period of such temporary appointment shall not exceed the period of the temporary vacancy. At the expiration of a leave of absence so granted, the member shall automatically resume full membership on the board, commission or committee.

2. Alternatively, the appointing Councilmember or Mayor may select one of their Alternate Commissioners to serve temporarily as provided for in Section 3.02.030.A.1 when a leave of absence is granted for one of their appointees.

B. Commissioners may request that an absence be excused due to a conflict between the date of a scheduled commission meeting on which the commissioner sits and a religious or cultural holiday. Such a request shall be made in writing on a form provided by the City and submitted to the secretary prior to the meeting for which the commissioner's absence is to be excused. The request shall not be subject to the approval of the commission but shall be accepted upon request. The secretary shall then excuse that absence and exclude it from the attendance report sent semi-annually to the City Clerk.

The definition of a religious or cultural holiday shall be left to the individual commissioner. However, the following list may be considered illustrative of the religious and cultural holidays for which a commissioner may seek an excused absence: Al Hijrah New Year, Ash Wednesday, Chinese New Year, Diwali, Easter Sunday, Eid Al Fitr, Eid Al Adha, Good Friday, Hanukkah, Holi, Kwanzaa, Palm Sunday, Passover, Rosh Hashanah, St.

Patrick's Day and Yom Kippur.

C. Members of the Police Accountability Board may be granted a leave of absence upon the filing of a notice for leave of absence with the City Clerk by the nominating Councilmember or the Mayor for their nominee. All other conditions and regulations for leaves of absence in this Code and adopted by resolution, that are not inconsistent with the City Charter, shall apply.

Section 2. That Berkeley Municipal Code Section 3.02.035 is amended to read as follows:

**3.02.035 Additional provisions pertaining to Alternate Commissioners.**

A. Each Councilmember and the Mayor may select up to five individuals to serve as their Alternate Commissioners. Alternate Commissioners shall be qualified and appointed as provided for in the Municipal Code and supplemental regulations adopted by resolution.

B. Alternate Commissioners shall be eligible to serve in such capacity only when a vacancy on a designated commission is the result of an approved leave of absence and the Councilmember or Mayor has delivered written notification to the City Clerk Department for temporary appointment of the selected Alternate Commissioner.

C. A Councilmember or the Mayor may, but is not required to, appoint an Alternate Commissioner to fill a temporary vacancy.

D. Appointment as an Alternate Commissioner does not prevent a Councilmember or the Mayor from appointing that Alternate Commissioner to sit as a Commissioner on any commission as provided for in Article 2 of Chapter 2.04.

E. All regulations and requirements of the BMC that apply to a Commissioner as defined in 3.02.010.A. also apply to Alternate Commissioners except Section 3.02.040.

F. Councilmembers or the Mayor may dismiss an Alternate Commissioner without appointing a replacement provided that the Alternate Commissioner has served the term minimum described in Section 2.04.075. Dismissal of an Alternate Commissioner must be submitted by the appointing Councilmember in writing to the City Clerk Department.

G. The Police Accountability Board shall have one alternate commissioner, approved by the full council by majority vote, and subject to all membership, service, and training requirements of the City Charter for regular members of the Board. All other conditions and regulations for alternate commissioners in this Code and adopted by resolution, that are not inconsistent with the City Charter, shall apply.

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 March 30, 2021, this Ordinance was passed to print and ordered published by posting by the following vote:

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

Noes: None.

Absent: None.







Office of the City Manager

CONSENT CALENDAR  
April 20, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Rama Murty, Acting Budget Manager  
 Subject: Measure T1 Loan

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to loan \$1,500,000 from the Capital Improvement Fund to the Measure T1 Fund in FY 2021 to complete Phase 1 projects and appropriate funds to repay this loan and previous loans from the Parks Tax, Measure BB – Local Streets & Roads, and Mental Health Realignment Fund from the Phase 2 Measure T1 bond proceeds once they become available.

FISCAL IMPACTS OF RECOMMENDATION

The resolution approves a loan of \$1,500,000 in FY 2021 to the Measure T1 Fund from the Capital Improvement Fund. The loan funds are currently in the FY 2021 Capital Improvement Fund budget and will be transferred to Measure T1 Fund. The appropriation of the funds in the Measure T1 Fund will be included in the Second Amendment to the FY 2021 Annual Appropriations Ordinance (“AAO #2”). The Phase 2 Measure T1 bond sale is expected to be completed in May 2021 and the repayment of this loan and previous loans made by the Parks Tax Fund, Measure BB Local Streets & Roads Fund, and Mental Health Realignment Fund will be included in FY 2021 AAO #2.

CURRENT SITUATION AND ITS EFFECTS

The cost to complete all Phase 1 T1 projects is approximately \$41.8 million. The City’s T1 cash on hand is \$36.685 million, which includes \$35 million in bonds sold and \$1.685 million of estimated earned interest. This leaves an estimated funding gap of \$5.115 million. In March 2019, Council authorized \$5.3 million from the General Fund in FY 2021 to cover the gap and complete the Phase 1 projects.

With the advent of COVID-19 pandemic emergency, the City faced a \$28 million FY 2021 General Fund budget shortfall that would eventually increase to \$39 million after adding other necessary funding allocations. With the budget shortfall and the need for \$5.3 million to be used for FY 2021 operational needs, staff had to develop alternative strategies to fund Phase 1 projects without drawing on the additional General Fund allocation. These strategies included delaying selected Phase 1 projects, borrowing funding from Parks, Recreation & Waterfront (“PRW”) Department and Public Works

("PW") Department special funds to be reimbursed by the Phase 2 Measure T1 bond sale, and accelerating the Phase 2 public process and bond sale.

On December 13, 2016, Council approved Resolution 67,681-N.S. authorizing the City to use bond proceeds to reimburse project expenditures that occurred prior to the bond sale. The Resolution did not limit this to the General Fund, but applies to any funding source for T1 project costs.

On September 15, 2020, Council approved Resolution 69,547-N.S. authorizing the City Manager to loan \$600,000 from the Parks Tax Fund and \$600,000 from the Measure BB – Local Streets & Roads Fund to the Measure T1 Fund for a total of \$1.2 million in FY 2021 to complete Phase 1 projects.

On December 1, 2020, Council approved Resolution 69,627-N.S. authorizing the City Manager to loan \$198,400 from the Mental Health Realignment Fund balance to complete the Phase 1 Mental Health Adult Clinic renovation project and that authorizes the City Manager to repay the loan to the Mental Health Realignment Fund balance from the Phase 2 Measure T1 bond proceeds once they are available.

It is now expected that once these funds are spent that an additional \$1,500,000 will be needed to complete the Phase 1 projects. Funding is available in the FY 2021 Capital Improvement Fund and can be loaned to the Measure T1 Fund.

With the Phase 2 bond sale expected to be completed in May 2021, the loans to Measure T1 Fund from the Parks Tax Fund, Measure BB – Local Streets & Roads Fund, and the Capital Improvement Fund can be appropriated in AAO #2 and repaid in FY 2021.

Authorizing a loan of \$1,500,000 and completing the Phase 1 Measure T1 projects is a Strategic Plan Priority Project, advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

#### ENVIRONMENTAL SUSTAINABILITY

Actions included in the budget will be developed and implemented in a manner that is consistent with the City's environmental sustainability goals and requirements.

#### RATIONALE FOR RECOMMENDATION

The recommendation allows the City to complete the Phase 1 Measure T1 projects in a timely manner. Should City Council not approve this loan, the City would have to stop construction on various T1 projects.

#### CONTACT PERSON

Rama Murty, Acting Budget Manager, City Manager's Office, 981-7000

Measure T1 Loan

CONSENT CALENDAR  
April 20, 2021

Attachments:  
1: Resolution

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

MEASURE T1 FUND LOAN FROM CAPITAL IMPROVEMENT FUND

WHEREAS, Measure T1 cost to complete all Phase 1 T1 projects is approximately \$41.8 million and the City's T1 cash on hand is \$36.685 million leaving a gap of \$5.115 million; and

WHEREAS, in March 2019, Council authorized \$5.3 million from the General Fund for FY 2021 to cover the gap and complete Phase 1 projects; and

WHEREAS, with the advent of COVID-19 pandemic emergency, the City faced a \$39 million FY 2021 General Fund budget and could not afford to advance \$5.3 million for T1 projects; and

WHEREAS, staff had to develop alternative strategies to fund Phase 1 projects without drawing on the additional General Fund allocation including delaying selected Phase 1 projects, borrowing funding from Parks, Recreation, and Waterfront and Public Works special funds to be reimbursed by the Phase 2 Measure T1 bond sale, and accelerating the Phase 2 public process and bond sale; and

WHEREAS, on December 13, 2016, Council approved Resolution 67,681-N.S. authorizing the City to use bond proceeds to reimburse project expenditures that occurred prior to the bond sale and did not limit this to the General Fund but applies to any funding source for T1 projects; and

WHEREAS, on September 15, 2020, Council approved Resolution 69,547-N.S. authorizing the City Manager to loan \$600,000 from the Parks Tax Fund and \$600,000 from the Measure BB – Local Streets & Roads Fund to the Measure T1 Fund for a total of \$1.2 million in FY 2021 to complete Phase 1 projects; and

WHEREAS, on December 1, 2020, Council approved Resolution 69,627-N.S. authorizing the City Manager to loan \$198,400 from the Mental Health Realignment Fund balance to complete the Phase 1 Mental Health Adult Clinic renovation project and that authorizes the City Manager to repay the loan to the Mental Health Realignment Fund balance from the Phase 2 Measure T1 bond proceeds once they are available; and

WHEREAS, it is now expected that once these funds are spent that an additional \$1,500,000 will be needed to complete the Phase 1 projects and these funds are available in the FY 2021 Capital Improvement Fund budget; and

WHEREAS, with the Phase 2 bond sale expected to be completed in May 2021, the loans to Measure T1 Fund from the Parks Tax Fund, Measure BB – Local Streets &

Roads Fund, the Mental Health Realignment Fund, and the Capital Improvement Fund can be appropriated in the Second Amendment to the FY 2021 Annual Appropriations Ordinance and repaid in FY 2021.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to loan \$1,500,000 from the Capital Improvement Fund to the Measure T1 Fund in FY 2021 to complete Phase 1 projects and appropriate and repay this loan and previous loans from the Parks Tax, Measure BB – Local Streets & Roads, and Mental Health Realignment Fund from the Phase 2 Measure T1 bond proceeds once they become available.





Office of the City Manager

CONSENT CALENDAR  
April 20, 2021

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 March 1, 2021 (closed), March 9, 2021 (regular), March 16, 2021 (closed and special), March 23, 2021 (regular), March 25, 2021 (special), March 29, 2021 (closed) and March 30, 2021 (closed and regular).

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1. March 1, 2021 – Closed City Council Meeting
2. March 9, 2021 – Regular City Council Meeting
3. March 16, 2021 – Closed City Council Meeting
4. March 16, 2021 – Special City Council Meeting
5. March 23, 2021 – Regular City Council Meeting
6. March 25, 2021 – Special City Council Meeting
7. March 29, 2021 – Closed City Council Meeting
8. March 30, 2021 – Closed City Council Meeting
9. March 30, 2021 – Regular City Council Meeting

**MINUTES  
BERKELEY CITY COUNCIL  
SPECIAL MEETING**

**MONDAY, MARCH 1, 2021**

**9:00 A.M.**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

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

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

*Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this closed session meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.*

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

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/86861132018>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial **1-669-900-9128** or **1-877-853-5257 (Toll Free)**; enter Meeting ID: **868 6113 2018**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*To submit an e-mail comment during the meeting to be read aloud during public comment, email [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.*

*Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.*



## Preliminary Matters

**Roll Call:** 9:04 a.m.

**Present:** Taplin, Harrison, Wengraf, Robinson, Arreguin

**Absent:** Kesarwani, Bartlett, Hahn, Droste

Councilmember Hahn present at 9:06 a.m.

Councilmember Bartlett present at 9:08 a.m.

Councilmember Kesarwani present at 9:08 a.m.

Councilmember Droste present at 9:11 a.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 LABOR NEGOTIATORS; GOVERNMENT CODE SECTION 54957.6

Negotiators: Dee Williams-Ridley, City Manager, Paul Buddenhagen, Deputy City Manager, David White, Deputy City Manager, LaTanya Bellow, Human Resources Director, Burke Dunphy, Labor Negotiator.

Employee Organizations: Public Employees Union Local 1.

**Action:** No reportable action taken.

## OPEN SESSION:

No reportable action.

## Adjournment

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

**Vote:** All Ayes.

Adjourned at 9:35 a.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting held on March 1, 2021.

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Mark Numainville  
City Clerk

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, March 9, 2021**  
**6:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

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

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

*Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.*

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*Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.*

*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. 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:** 6:05 p.m.

**Present:** Taplin, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin

**Absent:** Kesarwani, Bartlett

Councilmember Kesarwani present at 6:06 p.m.

Councilmember Bartlett present at 6:07 p.m.

### Ceremonial Matters:

1. Recognition of Troy Duster, Berkeley Academic and Artist
2. Adjourned in Memory of Barbara Brust, Unhoused Advocate
3. Adjourned in Memory of Helen Schneider, Berkeley Resident and Volunteer

### City Manager Comments:

The City Manager provided an update on the Reimaging Public Safety process.

**Public Comment on Non-Agenda Matters:** 7 speakers.

## Consent Calendar

**Public Comment on Consent Calendar and Information Items Only:** 23 speakers.

**Action:** M/S/C (Arreguin/Robinson) to accept revised material from Councilmember Harrison on Item 20.

**Vote:** All Ayes.

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

**Vote:** All Ayes.

**1. Lease Agreement: Patpatia & Associates, Inc. for 125-127 University Ave. Office Space**

**From:** City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,754-N.S. executing a lease agreement with Patpatia & Associates, Inc. to lease 2nd floor office space located at 125-127 University Ave. The lease term is anticipated to begin May 1, 2021 and end April 30, 2024.

**First Reading Vote:** All Ayes.

**Financial Implications:** See report

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

**Action:** Adopted second reading of Ordinance No. 7,754–N.S.

## Consent Calendar

- 2. Stahlschmidt v. City of Berkeley, Case No. RG 20069713**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the settlement of the action entitled Stahlschmidt v. City of Berkeley, Case No. RG 20069713.  
**Financial Implications:** Public Liability Fund - \$75,533  
Contact: Farimah Brown, City Attorney, (510) 981-6950  
**Action:** Adopted Resolution No. 69,738–N.S.
- 3. Referral Response: Commission Low-Income Stipend Reform**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution adjusting the qualifying annual household income to the Alameda County 50% Area Median Income (AMI) for a three-person household for stipend and reimbursement in lieu of expenses for members of certain Boards, Commissions, and Committees, increasing the stipend to \$100 per meeting with an annual Consumer Price Index (CPI) inflator, and rescinding Resolution No. 64,831-N.S.  
**Financial Implications:** See report  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Adopted Resolution No. 69,739–N.S.
- 4. Confirming “At-Large” Appointments to the Reimagining Public Safety Task Force**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution confirming “At-Large” appointments to the Reimagining Public Safety Task Force.  
**Financial Implications:** None  
Contact: Dave White, City Manager's Office, (510) 981-7000  
**Action:** Adopted Resolution No. 69,740–N.S.
- 5. Referral Response: Deferral of Remaining Permit, Inspection, Connection, and Impact Fees for 2009 Addison Street and Referral to the City Manager to Develop a Limited-Term Citywide Fee Deferral Program**  
**From: City Manager**  
**Recommendation:** Consider Adopting a Resolution authorizing the City Manager to defer remaining building permit, inspection, connection, and impact fees estimated at \$676,464 for the Berkeley Repertory Theater’s project at 2009 Addison Street for a period of ten years. In addition, city staff is asking City Council to refer to the City Manager the development of a limited-term citywide fee deferral program.  
**Financial Implications:** See report  
Contact: Eleanor Hollander, Economic Development, (510) 981-7530  
**Action:** Adopted Resolution No. 69,741–N.S. as revised in Supplemental Communications Packet #1.

## Consent Calendar

- 6. Revenue Contract: East Bay Community Energy FY2021- Kitchen Electrification for Aging Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any resultant revenue agreements and amendments with East Bay Community Energy to provide funding for upgraded, energy-efficient kitchen appliances at both the North Berkeley and South Berkeley senior centers, in the amount of \$48,994, through the East Bay Community Energy's Kitchen Electrification Grant.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 69,742–N.S.
- 7. Contract No. 32000063 Amendment: United Site Service, Inc. for Additional Rental and Servicing of Portable Toilets and Sinks**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000063 with United Site Services of California, Inc. for rental and service of portable toilet and handwashing units, increasing the current contract amount of \$360,000 by \$270,000, for a total not to exceed amount of \$630,000 for a period of two years, with an option to extend for three 12-month periods, for a total amount not to exceed \$1,200,000.  
**Financial Implications:** Various Funds - \$1,200,000  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,743–N.S.
- 8. Contracts: On-Call Waterfront Project Management and Construction Management Services for Capital Improvement Projects at the Berkeley Waterfront**  
**From: City Manager**  
**Recommendation:** Adopt two Resolutions authorizing the City Manager to execute contracts and any amendments with the following firms for on-call waterfront project management services for capital improvement projects at the Berkeley Waterfront, for contract periods of April 1, 2021 through June 30, 2024:  
1. AnchorCM, for an amount not to exceed \$1,000,000.  
2. Park Engineering, Inc., for an amount not to exceed \$1,000,000.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,744–N.S. (AnchorCM); and Resolution No. 69,745–N.S. (Park Engineering).

## Consent Calendar

- 9. Loan Application: Dock Replacement at the Berkeley Marina**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to sign a loan agreement with the California Department of Boating and Waterways and to accept the funds for a loan not to exceed \$5,500,000 for replacement of D & E docks at the Berkeley Marina.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,746–N.S.
- 10. Grant Application: Environmental Enhancement and Mitigation Project (EEMP) Proposal**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to submit an Environmental Enhancement and Mitigation (EEM) grant application to plant urban forest trees in the amount up to \$500,000; to accept the grant; to execute any resultant revenue agreements and amendments; and authorizing the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.  
**Financial Implications:** Revenue - \$500,000  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,747–N.S.
- 11. Amendments to the Berkeley Election Reform Act (BERA) to Regulate Officeholder Accounts and Proposed Changes to City Council Office Budget Expenditure and Reimbursement Policies (Resolution 67,992-N.S.)** *(Reviewed by the Agenda & Rules Committee) (Item contains Supplemental Material)*  
**From: Fair Campaign Practices Commission**  
**Recommendation:** Form a joint subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts and (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.  
*(On February 8, 2021, the Agenda & Rules Committee made a positive recommendation to the City Council on part two of the Commission recommendation to prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.)*  
**Financial Implications:** None  
Contact: Sam Harvey, Commission Secretary, (510) 981-6950  
**Action:** Approved the recommendation of the Agenda & Rules Committee revised to change the word “citizens” to “residents.”

## Consent Calendar

### 12a. **Amending Source of Income Discrimination Ordinance to Establish Administrative Enforcement Procedure** *(Reviewed by the Land Use, Housing, & Economic Development Committee)*

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

**Recommendation:** The Homeless Commission recommends that BMC 13.31 be amended to provide for an administrative procedure to enforce the anti-discrimination property rental ordinance as to source of income. Such procedure should involve establishing a complaints procedure under an existing City of Berkeley department such as the Department of Planning or Rent Stabilization Board, where a complaint could be filed by a prospective tenant, or tenant, alleging that they have been discriminated against by a landlord, property owner or authorized agent or employee when seeking rental housing or in any other context currently covered under BMC 13.31. Stage 1 of enforcement in the complaints procedure shall involve the taking of the complaint which shall be investigated by the designated department expeditiously, within a reasonable period of time no longer than ten days. Upon completion of the investigation, a finding shall be made of substantial evidence of discrimination or no evidence of discrimination. In the process of the investigation, the investigator shall concurrently, while identifying the facts, attempt to resolve the complaint by seeking to bring the parties to agreement that the complaining party be permitted to rent the premises in question or alternatively, if the premises has otherwise been rented prior to the investigation, be provided the first option for the next available vacancy at the premises. Where the complaint has not otherwise been resolved through this procedure, and there is a finding of substantial evidence, the complaining party shall be offered the opportunity to have its complaint heard by an administrative hearing officer mirroring a procedure or similar to a procedure afforded by BMC 1.28. If the complainant files for such an administrative hearing, and the rental property remains available, the filing for an administrative hearing, shall constitute a stay of the property being otherwise rented to another applicant. If at the administrative hearing, the administrative law judge, or hearing officer, finds in favor of the complainant, the administrative hearing officer can order that housing be provided to the complainant and/or direct a fine of no more than five thousand dollars (\$5,000) to be paid to the complainant with an additional penalty to the City of Berkeley for the costs of the administrative appeal. This procedure will be a final administrative decision subject to litigation to be brought in a court of law by a complainant through any legal entity, private or public as the complainant can identify. The Homeless Commission further recommends that any person seeking housing, with a voucher or any subsidy to pay their rent, be considered for the rental in the order which their rental application is received and be entitled to the rental as the first applicant of right. Insufficient credit or poor credit shall not be a fact considered for rental as to the totality of the rent to be paid if the rent is to be otherwise paid through the voucher or subsidy source.

*(On February 4, 2021, the Land Use, Housing, & Economic Development Policy Committee made a qualified positive recommendation to refer to the City Manager to: 1) Draft amendments to the Source of Income Discrimination Ordinance to provide for an administrative procedure to enforce the anti-discrimination property*

## Consent Calendar

*rental ordinance as to source of income, parallel to the Fair Chance Ordinance; 2) Submit to Council in 2022 a report reviewing the effectiveness of the source of income discrimination ordinance in its first five years; and 3) Update and improve information on the City website and elsewhere about legal services for low income residents; and 4) Refer to the 4x4 Committee discussion of feasibility of enforcement of source of income discrimination alongside the fair chance ordinance, and discussion of Homeless Commission's first-in-time standard recommendations.)*

**Financial Implications:** See report

Contact: Brittany Carnegie, Commission Secretary, (510) 981-5400

**Action:** See action for Item 12b.

**12b. Companion Report: Amending Source of Income Discrimination Ordinance to Establish Administrative Enforcement Procedure** *(Reviewed by the Land Use, Housing, & Economic Development Committee)*

**From: City Manager**

**Recommendation:** The City Manager thanks the Homeless Commission for their concern regarding potential discrimination against residents trying to utilize rental assistance vouchers in Berkeley. She recommends, however, taking no action on the Homeless Commission recommendation since the City already funds legal assistance for low-income residents that may be used to obtain relief under BMC 13.31.

*(On February 4, 2021, the Land Use, Housing, & Economic Development Policy Committee made a qualified positive recommendation to refer to the City Manager to: 1) Draft amendments to the Source of Income Discrimination Ordinance to provide for an administrative procedure to enforce the anti-discrimination property rental ordinance as to source of income, parallel to the Fair Chance Ordinance; 2) Submit to Council in 2022 a report reviewing the effectiveness of the source of income discrimination ordinance in its first five years; and 3) Update and improve information on the City website and elsewhere about legal services for low income residents; and 4) Refer to the 4x4 Committee discussion of feasibility of enforcement of source of income discrimination alongside the fair chance ordinance, and discussion of Homeless Commission's first-in-time standard recommendations.*

**Financial Implications:** None

Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

**Action:** Approved the recommendation of the Land Use, Housing, & Economic Development Policy Committee revised to add an additional referral to recommendation as noted below.

*5) Refer to the City Manager to provide an estimate for the costs associated with the staffing and implementation, as an add-on to existing programs and services, to the Budget & Finance Committee for consideration in the FY 2022 budget process.*



## Council Consent Items

**13. HelpBerkeley: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund**

**From: Mayor Arreguin (Author), Councilmember Wengraf (Co-Sponsor), Councilmember Hahn (Co-Sponsor)**

**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Mayor Arreguin, to HelpBerkeley with funds 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 - \$250

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

**Action:** Adopted Resolution No. 69,748–N.S. revised to add contributions from the following Councilmembers up to the amounts listed: Mayor Arreguin - \$250; Councilmember Wengraf - \$250; Councilmember Taplin - \$250; Councilmember Hahn - \$250; Councilmember Robinson - \$100; Councilmember Kesarwani - \$100; Councilmember Harrison - \$100; Councilmember Bartlett - \$100.

**14. Declaring the 2021 Cesar Chavez-Dolores Huerta Commemorative Period**

**From: Mayor Arreguin (Author), Councilmember Robinson (Author), Councilmember Hahn (Co-Sponsor)**

**Recommendation:** Adopt a Resolution declaring the period of March 21, 2021 to April 10, 2021 as the Cesar Chavez/Dolores Huerta Commemorative Period in the City of Berkeley.

**Financial Implications:** None

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

**Action:** Adopted Resolution No. 69,749–N.S. revised to add the Whereas clause noted below.

*WHEREAS, in 2013, the Governor approved Assembly Bill 123 which amends Section 51008 of the Education Code to ensure that the state curriculum and framework, where appropriate, include instruction on Cesar Chavez and the history of the farm labor movement in the United States, and the role of immigrants, including Filipino Americans, in that movement, and that the state criteria for selecting textbooks include information to guide the selection of textbooks that contain sections that highlight the life and contributions of Cesar Chavez, the history of the farm labor movement in the United States, and the role of immigrants, including Filipino Americans, in that movement; and*

## Council Consent Items

- 15. Budget Referral: Funding Rectangular Rapid Flashing Beacons (RRFB) at Sixth Street and Addison Street**  
**From: Councilmember Taplin (Author)**  
**Recommendation:** That the City Council refers to the budget process the funding of Rectangular Rapid Flashing Beacons (RRFB) at the south end of the intersection of Sixth Street and Addison Street.  
**Financial Implications:** See report  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Approved recommendation.
- 16. Budget Referral: George Florence Park Traffic Calming (Tenth Street between University Avenue and Allston Way)**  
**From: Councilmember Taplin (Author), Mayor Arreguin (Co-Sponsor)**  
**Recommendation:** That the City Council refers to the budget process the funding of traffic calming measures on Tenth Street between University Avenue and Allston Way including but not limited to: 1. The addition of “SLOW CHILDREN AT PLAY” signs approaching George Florence Park and the West Berkeley YMCA. 2. Two speed tables on Tenth Street between Addison and Allston approaching George Florence Park, another speed table in front of the West Berkeley YMCA, and another at the south end of the intersection of Tenth and Allston. 3. Repainting of crosswalks along this section of Tenth Street. 4. Bulb outs at each corner of Tenth Street and Addison Street.  
**Financial Implications:** See report  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Approved recommendation as revised in Supplemental Communications Packet #2 from Councilmember Taplin.
- 17. Resolution Supporting HR 25, Calling for Federal Investigation on Sedition at U.S. Capitol and Expulsion of Complicit Members of Congress**  
**From: Councilmember Taplin (Author), Mayor Arreguin (Co-Sponsor), Councilmember Wengraf (Co-Sponsor), Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** Adopt a resolution condemning the violent attack on the U.S. Capitol on January 6, 2021 by a seditious mob intent on preventing the certification of the 2020 Presidential Election, in support of House Resolution 25, calling for a federal investigation on the attack and the expulsion of Members of Congress found complicit in incitement of insurrection.  
**Financial Implications:** None  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Adopted Resolution No. 69,750–N.S.

## Council Consent Items

### 18. Support for SB 260

**From: Councilmember Taplin (Author), Councilmember Robinson (Co-Sponsor), Councilmember Bartlett (Co-Sponsor), Mayor Arreguin (Co-Sponsor)**

**Recommendation:** Send a letter of endorsement for SB 260, the Climate Corporate Accountability Act, to Senator Scott Wiener and the Senate Standing Committee on Environmental Quality, and urge the CA Senate to lead the nation in pursuing real emissions reductions and holding corporations accountable.

**Financial Implications:** None

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

**Action:** Approved recommendation.

### 19. Support Vision 2025 for Sustainable for Sustainable Food Policies *(Reviewed by the Health, Life Enrichment, Equity & Community Committee)*

**From: Councilmember Davila (Author)**

**Recommendation:**

1. Adopt a Resolution Supporting Vision 2025 for Sustainable Food Policies
2. Join San Francisco, Chicago and Austin in signing the Milan Urban Food Policy Pact (MUFPP) which includes forming an advisory body on sustainable food policies.
3. Support adoption of a Climate-Friendly Food Purchasing Policy as described by Friends of the Earth to replace 50% of the City's annual animal-based food procurement with plant-based food.

4. Short Term Referral to the City Manager to: a. Track the amount of animal-based food replaced with plant-based food; b. Use Friends of the Earth's Municipal Guide to Climate-Friendly Food Purchasing for the procurement of plant-based food.

*(On February 8, 2021, the Health, Life Enrichment, Equity and Community Committee moved the item to Council with a qualified positive recommendation to take the following action: 1. Express support for the Milan Urban Food Policy Pact (MUFPP) 2. Refer aspects of the original item to the Community Health Commission (or future commission addressing public health) to take the following actions: a) Consult with appropriate City staff to evaluate the feasibility of altering food sources within the City's existing food service contracts - with a specific focus on the feasibility of replacing meat and dairy-based offerings with plant-based options - given contractor procurement practices and any federal or state nutrition requirements for seniors and other affected populations; and (b) Solicit input from potentially affected communities, particularly seniors, for their feedback on shifting to more plant-based foods through a short survey or other means; and 3. Adopt the resolution as amended.)*

**Financial Implications:** See Report

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

**Action:** Approved the recommendation of the Health, Life Enrichment, Equity and Community Committee as revised in Supplemental Communications Packet #1 and adopted Resolution No. 69,751–N.S.

## Council Consent Items

- 20. Resolution in Support of Establishing Statewide Targets for 100% Zero-Emission Vehicle Sales No Later Than 2025 and Comprehensive Legislative Program to Achieve an Equitable and Just Statewide Transition Towards 100% Zero-Emission Transportation and Mobility by 2030**  
**From: Councilmember Harrison (Author), Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** Adopt a resolution in support of establishing (1) statewide binding legislative targets for 100% zero emission vehicle sales no later than 2025, and (2) comprehensive statewide legislative program to achieve an equitable and just transition towards 100% zero-emissions transportation and mobility by 2030. Send copies of the resolution to Governor Newsom, State Senator Nancy Skinner, Assemblywoman Buffy Wicks, copying President Biden, Vice President Harris, Senators Feinstein and Padilla, and Congresswoman Lee.  
**Financial Implications:** Staff time  
 Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Adopted Resolution No. 69,752–N.S. as revised in the revised materials submitted by Councilmember Harrison at the meeting, including revisions to the letter.
- 21. Budget Referral: Allocate Transportation Network Companies User’s Tax Proceeds and other General Fund Revenues to Support Priority Protected Bicycle Boulevards and the Street Repair Program**  
**From: Councilmember Harrison (Author), Mayor Arreguin (Author), Councilmember Robinson (Author), Councilmember Taplin (Author)**  
**Recommendation:**  
 1. Refer to the June 2021 budget process: a. The first \$500,000 in expected Transportation Network Companies (TNC) User’s Tax General Fund revenue toward the construction and maintenance of 18.4 miles of priority protected bicycle boulevards; and b. \$410,000 in expected TNC Tax revenue as revenues become available and an additional \$90,000 from other General Fund revenue to supplement demonstration projects under the Street Repair Program that either directly or indirectly reduce greenhouse gas emissions.  
 2. Refer to the Transportation Commission to make recommendations to the Council as to allocation of TNC User’s Tax in subsequent budget cycles.  
**Financial Implications:** See report  
 Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Approved recommendation as revised in Supplemental Communications Packet #1 from Councilmember Harrison.

## Council Consent Items

- 22. Kala Art Institute 2021 Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmember Hahn (Author), Councilmember Taplin (Co-Sponsor), Mayor Arreguin (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)**  
**Recommendation:** Adopt a resolution approving the expenditure of an amount not to exceed \$500 per Councilmember, including \$250 from Councilmember Hahn, to the Kala Art Institute, a 501(c)(3) non-profit organization, to support Art Kala 2021, an exhibition, auction, and benefit to support Kala's artistic, cultural, and educational programs, 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:** Councilmember's Discretionary Funds - \$250  
Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150  
**Action:** Adopted Resolution No. 69,753–N.S. revised to add contributions from the following Councilmembers up to the amounts listed: Mayor Arreguin - \$250; Councilmember Wengraf - \$250; Councilmember Taplin - \$500; Councilmember Hahn - \$250; Councilmember Robinson - \$100; Councilmember Kesarwani - \$100; Councilmember Harrison - \$100; Councilmember Bartlett - \$100.
- 23. Resolution Condemning Anti-Asian Hate and Violence**  
**From: Councilmember Wengraf (Author), Councilmember Robinson (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor), Mayor Arreguin (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution Condemning Anti-Asian Hate and Violence.  
**Financial Implications:** None  
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160  
**Action:** Adopted Resolution No. 69,754–N.S.
- 24. Affirming the City of Berkeley's Support for the People of Tibet**  
**From: Councilmember Robinson (Author), Mayor Arreguin (Co-Sponsor)**  
**Recommendation:** Adopt a resolution affirming the City of Berkeley's support for the people of Tibet.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170  
**Action:** Adopted Resolution No. 69,755–N.S.

Recess 7:55 p.m. – 8:05 p.m.

## Council Action Items

25. **Resolution Clarifying Eligibility for Historic Landmark Designation for Residences and Other Structures, Sites and Areas of Importance for Notable Community Members Who Contributed to the Cultural and Historic Values of Berkeley**  
**From: Councilmember Harrison (Author), Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** Adopt a resolution clarifying eligibility for historic landmark designation for residences and/or other structures, sites and areas of importance for notable community members who contributed to the cultural and historic values of Berkeley, including to allow the childhood home of Vice President Kamala Harris to be eligible for designation.  
**Financial Implications:** None  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Item 25 withdrawn from the agenda by Councilmember Harrison.

## Action Calendar – New Business

26. **Berkeley Economic Dashboards Update**  
**From: City Manager**  
Contact: Eleanor Hollander, Economic Development, (510) 981-7530  
**Action:** 3 speakers. Presentation made and discussion held.

## Information Reports

27. **FY 2021-2022 Peace and Justice Commission Work Plan**  
**From: Peace and Justice Commission**  
Contact: Paul Buddenhagen, City Manager's Office, (510) 981-7000  
**Action:** Received and filed.
28. **Youth Commission Work Plan 2021**  
**From: Youth Commission**  
Contact: Ginsi Bryant, Commission Secretary, (510) 981-6700  
**Action:** Received and filed

**Public Comment – Items Not Listed on the Agenda - 0 speakers.**

## Adjournment

**Action:** M/S/C (Robinson/Wengraf) to adjourn the meeting.  
**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Harrison, Wengraf, Robinson, Droste, Arreguin;  
Noes – None; Abstain – None; Absent – Hahn.

Adjourned at 9:19 p.m.

I hereby certify that the foregoing is a true and correct record of the regular session meeting held on March 9, 2021.

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Mark Numainville  
City Clerk

## **Communications**

### **COVID-19 Vaccinations**

1. Lina Haldar
2. Anne McClintock (2)
3. Kimberly Wesley, on behalf of acgov.org (3)
4. Laura Babitt
5. Ariel Smith-Iyer
6. Councilmember Kesarwani
7. Rebecca Esterson
8. B.J. Chisholm & Joshua Sperry
9. Rachel Gold
10. Kathy Labriola

### **North Berkeley BART Transit-Oriented Development (TOD)**

11. Richard Links
12. Mary Lai
13. Charlene Woodcock
14. Todd Jailer
15. Allegra Guarino
16. Bruce Bagnell
17. Gael Alcock
18. Roberta Silverstein and Stephen Sperber
19. Vicki Sommer
20. 34 similarly worded form letters (Development that fits the neighborhood)

### **National Crime Victims' Rights Week Proclamation Request**

21. Michelle Joya, on behalf of the Alameda County District Attorney's Office

### **Berkeley Police Chief**

22. Isabelle Gaston
23. Lavy Quintero

### **Gilman I-80 Interchange Project**

24. David Lerman

### **Literature Live Around the World**

25. Cherilyn Parson

**Cannabis**

26. Daniel Kosmal

**Berkeley Mutual Aid**

27. Susan Runyan

**Housing Accountability Unit**

28. Livable California Electeds

**Cedar Rose Pickleball Courts Lawsuit**

29. Ravi Sahae, on behalf of LPS Law Firm

**Saka Nakodar Day**

30. Baldev Singh

**Golden Gate Horse Fatality**

31. Joe Kaplan (2)

**People's Park**

32. Uma Channer

**Black History Month 2021**

33. Russbumper

**Intent to Sue – 1346 Ordway Street**

34. Tim Kaun, on behalf of Law Offices of Dana Dean

**Homelessness**

35. Kathy Krebs

**Restaurant Week Promotion**

36. Jeffrey Church, on behalf of Visit Berkeley

**USPS Sanfu's**

37. Max Ventura

**Conduct of Zoom Meeting**

38. Linda Franklin

**URL's Only**

39. Vivian Warkentin (2)

40. Russbumper (6)

**Supplemental Communications and Reports 1**



**Item #5: Referral Response: Deferral of Remaining Permit, Inspection, Connection, and Impact Fees for 2009 Addison Street and Referral to the City Manager to Develop a Limited-Term Citywide Fee Deferral Program**

41. Supplemental material, submitted by the Office of Economic Development

**Item #19: Support Vision 2025 for Sustainable Food Policies**

42. Revised material, submitted by Councilmember Kesarwani

**Item #21: Budget Referral: Allocate Transportation Network Companies User's Tax Proceeds and other General Fund Revenues to Support Priority Protected Bicycle Boulevards and the Street Repair Program**

43. Revised material, submitted by Councilmember Harrison

**Item #24: Affirming the City of Berkeley's Support for the People of Tibet**

44. Tenzin Lungrig, General Secretary of Tibetan Assoc. of Northern CA

## **Supplemental Communications and Reports 2**

**Item #16: Budget Referral: George Florence Park Traffic Calming (Tenth Street between University Avenue and Allston Way)**

45. Supplemental material, submitted by Councilmember Taplin

**Item #21: Budget Referral: Allocate Transportation Network Companies User's Tax Proceeds and other General Fund Revenues to Support Priority Protected Bicycle Boulevards and the Street Repair Program**

46. Liza Lutzker, on behalf of Walk Bike Berkeley

## **Supplemental Communications and Reports 3**

**Item #14: Declaring the 2021 Cesar Chavez-Dolores Huerta Commemorative Period**

47. Revised material, submitted by Mayor Arrequin

**Item #19: Support Vision 2025 for Sustainable for Sustainable Food Policies**

48. Chimey Lee

**Item #20: Resolution in Support of Establishing Statewide Targets for 100% Zero-Emission Vehicle Sales No Later Than 2025 and Comprehensive Legislative Program to Achieve an Equitable and Just Statewide Transition Towards 100% Zero-Emission Transportation and Mobility by 2030**

49. Revised material, submitted by Councilmember Harrison

50. Kathy Dervin, on behalf of 350 East Bay, Berkeley Hub

51. Tom Lent, on behalf of Walk Bike Berkeley

52. Igor Tregub

**Item #21: Budget Referral: Allocate Transportation Network Companies User's Tax Proceeds and other General Fund Revenues to Support Priority Protected Bicycle Boulevards and the Street Repair Program**

53. Igor Tregub, on behalf of the Sierra Club

**Item #25: Resolution Clarifying Eligibility for Historic Landmark Designation for Residences and Other Structures, Sites and Areas of Importance for Notable Community Members Who Contributed to the Cultural and Historic Values of Berkeley**

54. Revised material, submitted by Councilmember Harrison

**Item #26: Berkeley Economic Dashboards Update**

55. Presentation, submitted by the Office of Economic Development

**Miscellaneous Communications**

**A Good Meeting**

56. Barbara Gilbert

# BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

TUESDAY, MARCH 16, 2021

3:00 P.M.

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

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

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

*Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this closed session meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.*

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*To join by phone: Dial 1-669-900-9128 or 1-877-853-5257 (Toll Free); enter Meeting ID: 837 7482 9299. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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## Preliminary Matters

**Roll Call:** 3:06 p.m.

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

**Absent:** Kesarwani, Taplin, Bartlett

Councilmember Taplin present at 3:07 p.m.

Councilmember Bartlett present at 3:08 p.m.

**Public Comment – Limited to items on this agenda only – 8 speakers.**

## CLOSED SESSION:

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

### 1. INITIATION OF LITIGATION PURSUANT TO GOVERNMENT CODE § 54956.9(c):

a. One case

**Action:** Pursuant to California Government Code Section 54957.1, approval by was given by the Council to initiate a lawsuit. The particulars of the case will be disclosed to any person upon inquiry once the action has been formally commenced.

### 2. CONFERENCE WITH LABOR NEGOTIATORS; GOVERNMENT CODE SECTION 54957.6

Negotiators: Dee Williams-Ridley, City Manager, Paul Buddenhagen, Deputy City Manager, David White, Deputy City Manager, LaTanya Bellow, Human Resources Director, Dania Torres-Wong, Chief Labor Negotiator.

Employee Organizations: International Brotherhood of Electrical Workers (IBEW), Local 1245, SEIU 1021 Community Services and Part-time Recreation Activity Leaders.

**Action:** No reportable action taken.

Councilmember Bartlett absent at 3:32 p.m.

Councilmember Wengraf absent at 5:58 p.m.

## OPEN SESSION:

Public Reports of actions taken pursuant to Government Code section 54957.1.

Pursuant to California Government Code Section 54957.1, approval by was given by the Council to initiate a lawsuit. The particulars of the case will be disclosed to any person upon inquiry once the action has been formally commenced.

## Adjournment

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

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

Adjourned at 6:04 p.m.

This is to certify that the foregoing is a true and correct record of the closed session meeting on March 16, 2021.

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Sarah Bunting, Assistant City Clerk

## Communications

- None

## Supplemental Communications and Reports 1

- None

## Supplemental Communications and Reports 2

- None

## Supplemental Communications and Reports 3

**Item #2: Conference with Labor Negotiators; Government Code Section 54957.6**

- Lorenzo Lewis

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

**Tuesday, March 16, 2021  
6:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

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

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

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*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. 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:** 6:24 p.m.

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

**Absent:** Bartlett

### Report from Closed Session

Pursuant to California Government Code Section 54957.1, approval by was given by the Council to initiate a lawsuit. The particulars of the case will be disclosed to any person upon inquiry once the action has been formally commenced.

**Action:** M/S/C (Arreguin/Hahn) to accept an urgency item from the City Manager pursuant to Government Code Section 54954.2(b)(2) entitled "Amendments to Hazard Pay for Grocery Workers Ordinance (B.M.C. Chapter 13.112)."

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

## Action Calendar

### Urgency Item: Amendments to Hazard Pay for Grocery Workers Ordinance (B.M.C. Chapter 13.112)

**From:** City Manager

**Recommendation:** Adopt an Urgency Ordinance to amend Chapter 13.112 to avoid an unintentional lapse in applicability due to statewide re-opening metrics. The amended ordinance would remain in effect for 120 days from the date it was originally enacted on February 23, 2021, unless extended by the Council.

**Fiscal Impacts:** None

Contact: Farimah Brown, City Attorney, (510) 981-6950

**Action:** 3 speakers. M/S/C (Arreguin/Wengraf) to adopt Urgency Ordinance No. 7,756-N.S.

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

## Worksession

### 1. Digital Strategic Plan (DSP), FUND\$ Replacement Program and Website Redesign Project Update

**From:** City Manager

Contact: Savita Chaudhary, Information Technology, (510) 981-6500

**Action:** 2 speakers. Presentation made and discussion held.

## Worksession

### 2a. **Unfunded Liability Obligations and Unfunded Infrastructure Needs**

**From: City Manager**

Contact: Rama Murty, Budget Office, (510) 981-7000

**Action:** 3 speakers. Presentation made and discussion held.

### 2b. **FY 2021 Mid-Year Budget Update**

**From: City Manager**

Contact: Rama Murty, Budget Office, (510) 981-7000

**Action:** 2 speakers. Presentation made and discussion held.

Recess 9:12 p.m. – 9:22 p.m.

Councilmember Harrison absent 9:22 p.m. – 10:58 p.m.

### 3a. **Parks, Recreation & Waterfront Department Capital Improvement Projects (CIP) Update**

**From: City Manager**

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

**Action:** 2 speakers. Presentation made and discussion held.

### 3b. **Turning Vision 2050 into Reality: Public Works Capital Improvement Plan for Fiscal Year 2022**

**From: City Manager**

Contact: Liam Garland, Public Works, (510) 981-6300

**Action:** 2 speakers. Presentation made and discussion held.

Councilmember Hahn absent 10:25 p.m. – 10:58 p.m.

## Adjournment

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

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

Adjourned at 10:58 p.m.

I hereby certify that the foregoing is a true and correct record of the special session meeting held on March 16, 2021.

---

April Richardson  
Assistant City Clerk



## **Worksession**

### **Supplemental Communications and Reports 1**

- None

### **Supplemental Communications and Reports 2**

#### **Item #2a: Unfunded Liability Obligations and Unfunded Infrastructure Needs**

1. Presentation, submitted by the City Manager's Office

#### **Item #2b: FY 2021 Mid-Year Budget Update**

2. Presentation, submitted by the City Manager's Office

### **Supplemental Communications and Reports 3**

#### **Item #1: Digital Strategic Plan (DSP), FUND\$ Replacement Program and Website Redesign Project Update**

3. Presentation, submitted by Information Technology

#### **Item #3a: Parks, Recreation & Waterfront Department Capital Improvement Projects (CIP) Updates**

4. Presentation, submitted by Parks, Recreation & Waterfront

#### **Item #3b: Turning Vision 2050 into Reality: Public Works Capital Improvement Plan for Fiscal Year 2022**

5. Presentation, submitted by Public Works

#### **Urgency Item**

#### **Amendments to Hazard Pay for Grocery Workers Ordinance (B.M.C. Chapter 13.112)**

6. Urgency item, submitted by the City Attorney

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, March 23, 2021**  
**6:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

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

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## **Preliminary Matters**

**Roll Call:** 6:02 p.m.

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

**Absent:** Kesarwani, Taplin, Bartlett

Councilmember Kesarwani present at 6:04 p.m.

Councilmember Taplin present at 6:05 p.m.

Councilmember Bartlett present at 6:06 p.m.

### **Ceremonial Matters:**

1. Recognition of Berkeley Mutual Aid
2. Recognition of the 19<sup>th</sup> Annual March for Meals Month
3. Adjourned the meeting in memory of the eight victims of the Atlanta, Georgia mass shooting; Soon Chung Park, Hyun Jung Grant, Suncha Kim, Yong Ae Yue, Delaina Ashley Yaun, Paul Andre Michels, Xiaojie Tan, and Daoyou Feng
4. Adjourned the meeting in memory of the victims of the Boulder, Colorado mass shooting

### **City Auditor Comments:**

1. The City Auditor provided updates on the Police Department data audit which includes “Calls for Service” and “Police Initiated Stops”, and on an audit underway pertaining to the Police Department’s budget.

### **City Manager Comments:**

None

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

## **Consent Calendar**

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

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

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

Councilmember Kesarwani absent 7:08 p.m. – 7:15 p.m.

## Consent Calendar

- 1. Contract No. 32000282 Amendment: AG Witt, LLC for COVID-19 Emergency Operations Cost Recovery Consultant**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000282 with AG Witt, LLC for COVID-19 Emergency Operations Cost Recovery Consulting, increasing the amount by \$100,000 for a not to exceed amount of \$250,000.  
**Financial Implications:** See report  
Contact: Dave White, City Manager's Office, (510) 981-7000  
**Action:** Adopted Resolution No. 69,756–N.S.
- 2. Partnership with East Bay Community Energy to Pursue Solar and Battery Energy Storage Systems on Municipal Facilities**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to continue pursuing widespread deployment of solar and battery energy storage systems (battery systems) at critical municipal facilities in partnership with the City's public power provider, East Bay Community Energy (EBCE), and commit to installing these systems through a standard Power Purchase Agreement (PPA) with EBCE should the City determine that the project results in benefits to the City budget and the community.  
**Financial Implications:** See report  
Contact: Jordan Klein, Planning and Development, (510) 981-7400  
**Action:** Adopted Resolution No. 69,757–N.S.
- 3. Contract No. 100692-2 Amendment: Serological Research Institute for DNA Testing Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 100692-2 and any necessary future amendments with Serological Research Institute (SERI) for the Berkeley Police Department (BPD), increasing the contract amount by \$250,000 for a total not to exceed amount of \$1,000,000 and a contract term extension for three additional years, until June 30, 2025.  
**Financial Implications:** State Proposition 172 Fund - \$250,000  
Contact: Andrew Greenwood, Police, (510) 981-5900  
**Action:** Adopted Resolution No. 69,758–N.S.

## Consent Calendar

- 4. Fiscal Year 2022 Street Lighting Assessments – Initiating Proceedings**  
**From: City Manager**  
**Recommendation:** Adopt two Resolutions describing proposed improvements to be used to determine the annual assessments levied for Berkeley Street Lighting Assessment District No. 1982-1 and Street Lighting Assessment District No. 2018, and ordering the preparation of Engineer’s Reports.  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,759–N.S. (District No. 1982-1); and Resolution No. 69,760–N.S. (District No. 2018).
- 5. Contract No. 100251-1 Amendment: Restoration Management Company**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 100251-1 (Contract No. 9635B in FUND\$) with Restoration Management Company, an on-call remediation services company, to provide emergency services in the event of flooding, sewer backups or other property damage that requires restoration, extending the term to June 30, 2022 and increasing the contract amount by \$150,000 for a total not-to-exceed of \$250,000.  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,761–N.S.
- 6. Appointment of boona cheema and Javonna Blanton to Mental Health Commission**  
**From: Mental Health Commission**  
**Recommendation:** Adopt a Resolution appointing: boona cheema as a representative of the Special Public Interest Category (consumer), to complete her second 3- year term beginning March 24, 2021 and ending March 23, 2024; and Javonna Blanton as a representative of the Special Public Interest Category (family), to complete her first 3-year term beginning March 24, 2021 and ending March 23, 2024.  
**Financial Implications:** None  
Contact: Jamie Works-Wright, Commission Secretary, (510) 981-5400  
**Action:** Adopted Resolution No. 69,762–N.S.
- 7. Authorization for Additional Public Works Commission Meeting in 2021**  
**From: Public Works Commission**  
**Recommendation:** Adopt a Resolution authorizing one additional meeting of the Public Works Commission in 2021.  
**Financial Implications:** None  
Contact: Joe Enke, Commission Secretary, (510) 981-6300  
**Action:** Adopted Resolution No. 69,763–N.S.

## Council Consent Items

- 8. 2021 Alameda County Redistricting Process**  
**From: Mayor Arreguin (Author)**  
**Recommendation:** Adopt a Resolution calling on the Alameda County Board of Supervisors to allocate adequate resources and direct the creation of policies to ensure an equitable, inclusive and transparent process for the 2021 Alameda County redistricting process.  
**Financial Implications:** None.  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Councilmember Hahn added as a co-sponsor. Adopted Resolution No. 69,764–N.S.
- 9. Establish a Parking Benefits District (PBD) in the Adeline Corridor and Fiscal Year 2022 Budget Referral**  
**From: Councilmember Bartlett (Author), Mayor Arreguin (Co-Sponsor), Councilmember Taplin (Co-Sponsor)**  
**Recommendation:** Refer to the City Manager to establish a Parking Benefits District (PBD) in the Adeline Corridor to finance and support neighborhood improvements-- such as landscaping, lighting, cleaning, pedestrian and transit infrastructure, and more--in South Berkeley and refer to the Fiscal Year 2022 budget process \$50,000 for city staff to hire and manage a consultant to assist in the formation and establishment of the PBD.  
**Financial Implications:** See report  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130  
**Action:** Approved recommendation as revised in Supplemental Communications Packet #1 from Councilmember Kesarwani.
- 10. Proclamation in Honor of Holocaust Remembrance Day**  
**From: Councilmember Wengraf (Author)**  
**Recommendation:** Adopt the Holocaust Remembrance Day Proclamation for the 18th Annual Holocaust Remembrance Day program to be held virtually Thursday, April 8th from 2:00 – 3:00 PM.  
**Financial Implications:** None  
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160  
**Action:** Councilmembers Hahn and Taplin added as co-sponsors. Adopted proclamation.

## Council Consent Items

- 11. Support for AB 286: Food Delivery Platform Fees and Commissions**  
**From: Councilmember Robinson (Author), Councilmember Kesarwani (Co-Sponsor)**  
**Recommendation:** Send a letter to Assemblymember Lorena Gonzalez, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Assembly Bill 286, which would establish equitable standards in the food delivery industry by capping service fees, requiring food delivery platforms to provide accurate transaction breakdowns, and prohibiting the collection of delivery driver tips by the delivery company.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170  
**Action:** Councilmembers Hahn and Harrison added as co-sponsors. Approved recommendation.
- 12. Support for AB 314: Legislature Employer-Employee Relations Act**  
**From: Councilmember Robinson (Author), Councilmember Taplin (Co-Sponsor), Councilmember Harrison (Co-Sponsor)**  
**Recommendation:** Send a letter to Assemblymember Lorena Gonzalez, Assemblymember Buffy Wicks, and Senator Nancy Skinner in support of Assembly Bill 314, which would grant all employees of the California State Legislature the right to unionize and otherwise collectively bargain for improved wages and working conditions.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170  
**Action:** Councilmember Hahn added as a co-sponsor. Approved recommendation.
- 13. Support for AB 328: Reentry Housing Program**  
**From: Councilmember Robinson (Author), Councilmember Taplin (Co-Sponsor), Councilmember Harrison (Co-Sponsor)**  
**Recommendation:** Send a letter to Assemblymember David Chiu, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Assembly Bill 328, which would allow those with recent histories of incarceration to remain stably housed and exit homelessness through grants for evidence-based housing and housing-based services interventions.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170  
**Action:** Councilmember Hahn added as a co-sponsor. Approved recommendation.

## Council Consent Items

- 14. Support for AB 1400: Guaranteed Health Care for All**  
**From: Councilmember Robinson (Author), Councilmember Taplin (Co-Sponsor)**  
**Recommendation:** Adopt a resolution in support of Assembly Bill 1400, which would establish the California Guaranteed Health Care for All Act and create CalCare, a single-payer health insurance program for all California residents that is comprehensive, uniform, equitable and governed by the CalCare board.  
**Financial Implications:** None.  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170  
**Action:** Councilmember Hahn added as a co-sponsor. Adopted Resolution No. 69,765–N.S.

## Action Calendar – Public Hearings

- 15. Updated Fees for the Building Emissions Savings Ordinance**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing and upon conclusion, adopt a Resolution amending the Planning Department fee schedule (Resolution No. 67,985-N.S.) by updating the administrative fees charged to building owners filing for a Time of Listing Deferral under the Building Emissions Saving Ordinance (BESO), and creating an administrative late fee.  
**Financial Implications:** See report  
Contact: Jordan Klein, Planning and Development, (510) 981-7400  
  
**Public Testimony:** The Mayor opened the public hearing. 1 speaker. M/S/C (Arreguin/Harrison) to close the public hearing.  
**Vote:** All Ayes.  
  
**Action:** M/S/C (Arreguin/Robinson) to adopt Resolution No. 69,766–N.S.  
**Vote:** All Ayes.
- 16. ZAB Appeal: 1200 San Pablo Avenue, Use Permit #ZP2019-0192**  
**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 #ZP2019-0192 to demolish three existing commercial buildings and construct a six-story, mixed-use building with 104 dwelling units (including nine Very Low Income units), a 3,119-square-foot restaurant, 4,343 square feet of usable open space, and 55 ground-level parking spaces, and dismiss the appeal.  
**Financial Implications:** None  
Contact: Jordan Klein, Planning and Development, (510) 981-7400  
**Action:** Appeal withdrawn by appellant. No action taken on Item 16.



## Action Calendar

17. **Objective Standards Recommendations for Density, Design and Shadows From: Joint Subcommittee for the Implementation of State Housing Laws Recommendation:** Refer to the Planning Commission and Design Review Committee to review the recommendations from the Joint Subcommittee for the Implementation of State Housing Laws (JSISHL) for objective standards for density, design and shadows and draft Zoning Ordinance amendments for City Council consideration.  
**Financial Implications:** See report  
Contact: Alene Pearson, Commission Secretary, (510) 981-7400  
**Action:** Moved to Consent Calendar. Referred Item 17, including the supplemental material submitted at the meeting from the Planning Department, to the Agenda & Rules Committee for future scheduling.
18. **Partnership for the Bay's Future and Current Anti-Displacement Initiatives**  
*(Continued from February 23, 2021)*  
**From: City Manager**  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** 2 speakers. Discussion held.

## Information Reports

19. **Children, Youth and Recreation Commission FY2021 Work Plan**  
**From: Children, Youth, and Recreation Commission**  
Contact: Stephanie Chu, Commission Secretary, (510) 981-6700  
**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda - 3 speakers.**

## Adjournment

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

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

Councilmember Bartlett absent 7:58 p.m. – 8:02 p.m.

Councilmember Droste absent 7:58 p.m. – 8:02 p.m.

Adjourned at 8:02 p.m.

I hereby certify that the foregoing is a true and correct record of the regular session meeting held on March 23, 2021.

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Rose Thomsen  
Deputy City Clerk

## **Communications**

### **Zoning Revisions**

1. 18 similarly worded form letters
2. Evan Green
3. Barbara Fisher
4. Paul Eldridge
5. Dawn Thomas
6. Chris Rosen
7. Adrien Couton
8. Hal Aronson
9. Brian MCarthy
10. Deborah Thompson
11. Sloan Morgan
12. Shelley Golomb
13. Gilbert Ferrey
14. Dan Newman
15. Bill Bogert
16. Rhonda Grossman and Bernardo Lopez
17. Phyllis Steiber
18. Cathy Fogel
19. Jamie Keller
20. Garet O'Keefe
21. Tammy Stellanova
22. Bruce Brody
23. Rachel Bradley
24. John Blaustein and Terry Alexander
25. Jordan Burns
26. Lauren and David Moore
27. Vicki Piovio
28. Barryett Enge
29. Jim Haydel
30. Laverda Allen
31. Robin Kibby and Brian Donaldson
32. Vicki Sommer
33. Sharon Entwistle
34. Lucinda Olney
35. Gary Dahl

36. Anandamayi Arnold
37. Stephen Sperber and Roberta Silverstein
38. Eli Gilad
39. Elizabeth Stoller
40. Ewald Detjens
41. Tara Arnold
42. Chris McKee
43. Rocky Nevin
44. Alison Lingo
45. Kori Kody
46. Nancy Lemon and Blaine Devine
47. Claudia Koch
48. Susie Medak
49. Victoria deMara
50. Nicole Chabot
51. Diana Campoamor
52. Joe Van Steen
53. Gregory Murphy
54. David Spinner
55. Tom Belfort
56. Elaine Chan
57. Robin Hollenberg
58. Darrell Owens
59. Helen Stroud
60. Henry DeNero (2)
61. John Rice
62. Dennis Mulqueeny
63. Barbara Freeman
64. Diana Bohn (2)
65. Jeff Robinson
66. Paula Morgan
67. Dolph and Carla Rempp
68. Ken Krich
69. Ellen Lumpkin
70. Judith Daar
71. Lee Ann Weber
72. Leah and John Rosenthal
73. Sue Jones
74. Janet Hurley
75. Jill Miller
76. Paul Newacheck
77. Mary Spence
78. Gail Machlis
79. Marissa Moss
80. Wendy Ruebman
81. Joan Garvin

82. Victoria Kahn
83. Carol Curtis
84. Allen Romano and Linda Shapiro
85. Paul Schwartz
86. Peggy Mendelson
87. Andrea Cassidy
88. Deb Shell
89. Mona Halaby
90. Alan Shindel
91. Greysonne Coomes
92. Judy Babelaar
93. Cynthia Larson
94. Bob Flasher
95. Gareth Ellis
96. Meryl Siegal
97. Helene Silverberg
98. Kerstin Fischer
99. Gabriela Kipnis
100. John Vinopal
101. Michael Scott
102. George Porter
103. Amber Turley
104. Issy Kipnis
105. William Pottinger
106. David Thill
107. Sara Pederson
108. Carol Hirth
109. Steve Taylor
110. Kevin Ching and Xiaoyan Wang
111. Paola Laverde (2)
112. Jeff Shuttleworth
113. Sara Baughn
114. Pasha Dina
115. Emily Newman
116. Brad Smith
117. Cecilia Gaerlan
118. Julia Cato
119. John Selawsky
120. Brian Gilbane
121. Marian Wolfe
122. Richard Boubelik
123. Rocky Offner
124. Karen Sharpe
125. Susan Pownall
126. Sandra Weber
127. Daniel Rapaport

128. Igor Tregub
129. Jim Haydel
130. Carol Franger
131. Carole Cool
132. Nick Shere
133. Alexis Berger
134. Aimee Baldwin
135. Phyllis Olin
136. Leah Levy
137. Suzette Trigger
138. Daniel Ng
139. Lisa Goodman
140. Christine Cosgrove
141. Lia Dun
142. Barbara Gilbert
143. Harald Leventhal
144. Gertrude Weil
145. Steven Segal
146. Roberto Campoamor
147. T.M. Scruggs and Laura Graham
148. Susan Nunes
149. Naomi Pearce
150. Jana Olson
151. Nina Torcoletti
152. Anirvan Chatterjee
153. Marissa Saenger
154. Enid Camps
155. David Finn
156. Virginia Logan
157. Robert Dering
158. Hilary Roberts
159. Mati Teiblum
160. Penny Barron
161. Martine Kraus
162. David Brandon
163. Harry Delmer
164. Karen Weil
165. Deborah Gouailhardou
166. Christine Rosen
167. Kathy Freistadt
168. Katherine Hansen
169. Eric Broque
170. Kenneth Gross
171. Irene Rosenthal
172. Mary Lee Noonan
173. Svetlana Livdan

174. Jean-Luc Szpakowski
175. Elizabeth Powell
176. John Hitchen
177. Noreen Axelson
178. Melissa Short
179. Joan Hart
180. Jim Haydel
181. Kate Brosgart Moore
182. Margaret Booth
183. Paul Hainsworth
184. Alison Lingo
185. Jim Larkins
186. Penny Brogden
187. Negeene Mosaed and Mari Mendonca
188. Sara Gray
189. Gloria Pass
190. Charlotte DeVito
191. Leah Haygood
192. Karen Harrington
193. Joe Van Steen
194. Lynn Glaser
195. Nancy Klein
196. Ann May
197. Daniel Marcus
198. Connor Jackson
199. Erin Paulos
200. Paul Casperson
201. Livable California

### **School Reopening**

202. David Jacobowitz
203. Nora Isaacs (2)

### **Ohlone Park**

204. L.A. Wood

### **Tenant Protection Pitfalls**

205. Alison Horton

### **Berkeley Police Controlled Equipment**

206. Lindsey Stratton
207. Wendy Alfsen

### **Climate Change**

208. Karen Harrington
209. Thomas Lord (3)

**COVID-19 Related**

210. City of Berkeley COVID-19 Information Services

211. Janice Schroeder

**Black History Month**

212. Moni Law

213. Russbumper

**East Bay Community Energy**

214. East Bay Community Energy

**Blockchain**

215. Thomas Lord

**Sewer Construction**

216. Dona Bretherick

**Horse Fatalities at Golden Gate Fields**

217. Heather Wilson

**Smoking Pot on the Sidewalks**

218. Steven Schuyler

**Fair and Impartial Policing**

219. David Lerman

220. Steven Schuyler

221. Nicole Orestano

**North Berkeley BART Housing**

222. Ly Vo and Family

223. Anne-Lise Francois

**Needy Food Delivery and Resource Distribution**

224. Antonio Mendieta, on behalf of Comida For Families

**Berkeley Schools**

225. Kate Brosgart

**TOPA/Affordable Housing Overlay/Housing as a Human Right**

226. 10 similarly worded form letters

227. Alfred Twu

228. Sean McMahon

229. Igor Tregub

230. Thomas Lord

**Henoko Resolution**

231. Diana Bohn

**Earmarks in the Federal Infrastructure Bill**

232. Dan Smuts

**Homelessness**

233. Dereka Bennett

**Chief Greenwood and the Berkeley Police Department**

234. Barbara Gilbert

235. Racism and Criminal Justice Reform Group

**Berkeley's Asphalt Plant**

236. Igor Tregub, on behalf of the Sierra Club

**COVID-19 Business Grant**

237. Devvin Purnell, on behalf of Mizz Ada's Daycare

**URL's Only**

238. Vivian Warkentin (3)

239. Thomas Lord

240. Russbumper (10)

**Supplemental Communications and Reports 1**

**Item #9: Establish a Parking Benefits District (PBD) in the Adeline Corridor and Fiscal Year 2022 Budget Referral**

241. Revised material, submitted by Councilmember Kesarwani

**Item #16: ZAB Appeal: 1200 San Pablo Avenue, Use Permit #ZP2019-0192**

242. Doris Kang, on behalf of Matano Kang Architects

243. Chris Lee-Egan

**Item #17: Objective Standards Recommendations for Density, Design and Shadows**

244. Toni Mester

**Supplemental Communications and Reports 2**

**Item #14: Support for AB 1400: Guaranteed Health Care for All**

245. Allan Brill

246. Catherine Mattison

247. Andrea Mullarkey

248. Diana Bohn

**Item #16: ZAB Appeal: 1200 San Pablo Avenue, Use Permit #ZP2019-0192**

249. David Ushijima

**Supplemental Communications and Reports 3**



**Item #9: Establish a Parking Benefits District (PBD) in the Adeline Corridor and Fiscal Year 2022 Budget Referral**

250. YaVette Holts

**Item #14: Support for AB 1400: Guaranteed Health Care for All**

251. Tora Spigner

**Item #15: Updated Fees for the Building Emissions Savings Ordinance**

252. Presentation, submitted by Planning

**Item #17: Objective Standards Recommendations for Density, Design and Shadows**

253. Supplemental material, submitted by Planning

254. Chimey Lee

**Miscellaneous Communications**

**Proclamation – Berkeley Mutual Aid**

255. Judy Bertelsen (2)

256. Tony Benado

**Non-Agenda – Climate Issue**

257. Thomas Lord

## MINUTES SPECIAL MEETING OF THE BERKELEY CITY COUNCIL

In accordance with the authority in me vested, I do hereby call the Berkeley City Council in special session as follows:

**Thursday, March 25, 2021  
6:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

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

### **PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

*Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.*

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

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/82133233284>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial **1-669-900-9128** or **1-877-853-5257 (Toll Free)** and enter Meeting ID: **821 3323 3284**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*To submit an e-mail comment during the meeting to be read aloud during public comment, email [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.*

*Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.*

*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. 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:** 6:05 p.m.

**Present:** Kesarwani, Taplin, Hahn, Wengraf, Robinson, Droste, Arreguin

**Absent:** Bartlett, Harrison

Councilmember Bartlett present at 6:06 p.m.

## Action Calendar – New Business

**Action:** M/S/C (Arreguin/Robinson) to accept revised materials from Mayor Arreguin on Item 1.

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

Recess 8:07 p.m. – 8:17 p.m.

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

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

### 1. **Initiation of Public Process and Zoning Concepts for 2023-2031 Housing Element Update**

**From:** Councilmember Droste (Author), Mayor Arreguin (Author), Councilmember Kesarwani (Author), Councilmember Taplin (Author)

**Recommendation:** Refer to the City Manager and Planning Commission to initiate an inclusive 18 month public process to develop the state-mandated update to the Housing Element of the Berkeley's General Plan and forward the following key principles and zoning concepts for consideration to achieve equitable and sustainable housing and compliance with new Regional Housing Needs Allocation (RHNA) requirements.

**Financial Implications:** See report

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

### 2. **Initiation of Participatory Planning for Berkeley's Regional Housing Needs Allocation (RHNA)**

**From:** Councilmember Hahn (Author), Councilmember Harrison (Author), Councilmember Bartlett (Co-Sponsor)

**Recommendation:**

1. Direct the City manager to initiate and take all steps necessary to launch and complete the City's housing element update in compliance with all State and City of Berkeley laws, plans, guidelines and regulations, to meet the January 2023 RHNA deadline for submission to the California Department of Housing and Community Development (HCD).

## Action Calendar – New Business

2. Refer to the City Manager to hire experienced, culturally competent consultants to lead the housing element update and any required California Environmental Quality Act (CEQA) processes in collaboration with members of the public, the Planning, Housing Advisory, Homeless and other appropriate Commissions, the City Council, and City staff.
3. Refer to the Budget process the identification and allocation of at least \$500,000 in funds necessary to complete the housing element update in a thoughtful, comprehensive, participatory, culturally competent and timely manner.
4. Refer to the City Manager to study and report back to the City Council the following:
  - a. A map of State legislation, with a focus on new legislation adopted since the City's last housing element update, to clarify the State regulatory landscape in which Berkeley's current RHNA planning will take place. Legislation mapped should include but not be limited to new laws about ADUs, SB35, and related to planning in high risk fire/earthquake/sea level rise areas.
  - b. An evaluation of the distribution of RHNA-required units at each affordability level, taking into account Berkeley's current housing pipeline report, the amount of housing in the pipeline at various affordability levels, and City demographics related to income.
  - c. Status of State-level efforts to count group living accommodation (GLA) units/beds towards RHNA requirements.
5. Finalize objective planning standards and updated affordable housing requirements, as previously referred by the City Council, simultaneously with the RHNA planning process.
6. Refer to the City Manager to ensure that the framing of the housing element update reflects core Berkeley values of equity, affordability, and protection of residents from displacement and predatory purchasing, and puts cooperative, land-trust and other social housing concepts, as well as innovative home ownership models, on an equal footing with more traditional market-rate and affordable housing solutions.

**Financial Implications:** See report

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

**Action:** 125 speakers. M/S/C (Arreguin/Droste) to adopt Item 1 as revised in the version submitted by the Mayor at the meeting with further amendments in the Equitable Neighborhood Section; and to adopt Item 2 as revised in Supplemental Communications Packet #2.

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

## Adjournment

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

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

Adjourned at 11:06 p.m.

I hereby certify that the foregoing is a true and correct record of the special session meeting held on March 25, 2021.

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Mark Numainville  
City Clerk

## **Communications**

- None

## **Supplemental Communications and Reports 1**

- None

## **Supplemental Communications and Reports 2**

### **Item #1: Initiation of Public Process and Zoning Concepts for 2023-2031 Housing Element Update**

1. 12 similarly-worded in support form letters (My name is)
2. 10 similarly-worded in support form letters (Writing to urge)
3. 34 similarly-worded in support form letters (Housing elements)
4. Les Shipnuck
5. Aja Fasah
6. Kate Ham
7. Margaret Copeland
8. Jane Lenoir
9. Ken Berland
10. Todd Andrew
11. Theo Ferguson
12. Davina Srioudom (2)
13. Andrew Reichart
14. Maryhunteraustin@
15. Judy MacLean
16. Samuel Taplin, on behalf of Associated Students of University of California
17. Igor Tregub (2)
18. Tuan Ngo
19. Kelly Hammargren (3)
20. Julia Cato
21. David Brandon
22. Zoe Siegel
23. Susan Kirsch
24. Margot Smith
25. Loni Gray

26. Tom Limon, on behalf of Casita Coalition
27. Nico Pemantle
28. Jordan Burns
29. Alan Baer
30. Nico Calavita
31. David Kammen
32. Leah Simon-Weisberg, on behalf of the Berkeley Rent Stabilization Board
33. Theo Posselt
34. Eric Johnson
35. Diana Bohn
36. Madeleine Shearer and Lisa Bruce, on behalf of Berkeleyans for Responsible Government
37. Debbie Sanderson and Kathleen Crandall, on behalf of the ADU Task Force
38. Jonathan Singh
39. Sara Hartley
40. Dianne Crosby
41. Claudia Kawczynska
42. Todd David, on behalf of the Housing Action Coalition
43. Noah Budnick
44. Kathleen Giustino
45. Michael and Susan Iida
46. Senator Nancy Skinner
47. Dylan Casey, on behalf of CA Renters Legal Advocacy and Education Fund
48. Michael Katz
49. Anne Holmes
50. Damon Guthrie
51. Zach Franklin
52. Alfred Twu
53. Emily Chou
54. Tim Frank, on behalf of Center for Sustainable Neighborhoods
55. Serena Lim
56. Laura Foote, on behalf of YIMBY Action
57. James Chang, on behalf of East Bay Young Democrats
58. Aaron Eckhouse, on behalf of California YIMBY
59. Urban Environmentalists
60. Raul Maldonado
61. Stephanie Allan
62. Jeffrey Wescott
63. Teresa Clarke
64. Jean Walsh, on behalf of AC Transit, Ward 2
65. Deborah Matthews, on behalf of Berkeley Democratic Club
66. Greg Magofna
67. Chris Diceersin-Prokopp
68. Bill Bogert
69. Megan Moran
70. Matt Regan, on behalf of Bay Area Council
71. Ohan Smith
72. Liz Ozol
73. Karen Chapple, on behalf of The Urban Displacement Project

74. Matthew Wadlund
75. Betsy Thagard
76. Eva Herzer
77. Alex Benn
78. Libby Schaaf, Mayor of the City of Oakland
79. Rebecca Tuden
80. Judy MacLean (2)
81. Cal Berkeley Democrats
82. Davina Srioudom
83. Matthew Lewis
84. Aviv Nitsan
85. Tommso Sciortino
86. Associated Students – University of California
87. Grayson Peters
88. Stephen Dalton

**Item #2: Initiation of Participatory Planning for Berkeley’s Regional Housing Needs Allocation (RHNA)**

89. Supplemental material, submitted by Councilmember Hahn
90. Harald Leventhal
91. Constance Rivemale
92. Karen Weil
93. Shirley Dean
94. Deborah Kropp
95. Kelly Hammargren
96. Vincent Casalaina
97. Sandra Curtis
98. Tobey Wiebe
99. Bernard Marszalek
100. Betsy Bigelow-Teller
101. Charlene Woodcock
102. Michael Gardner
103. Mary Lee Noonan

**Supplemental Communications and Reports 3**

**Item #1: Initiation of Public Process and Zoning Concepts for 2023-2031 Housing Element Update**

104. Revised material, submitted by Mayor Arreguin
105. Sophie Beach
106. Laurie Bianchi Payne
107. Gary Miguel
108. Milo Trauss
109. Jonathan Eden
110. Pamela Ormsby
111. Charles Siegel, on behalf of Walk Bike Berkeley
112. Oren Cheyette
113. Sean Gibson
114. Laura Foote
115. Greg Magofna, on behalf of East Bay for Everyone
116. Daniel Kammen

117. Barclay Ogden
118. Virginia Warheit
119. David Pope
120. George Porter
121. Jeff Hobson
122. Summer Brenner
123. Steven Segal
124. David Hollinger
125. Larisa Cummings
126. John Parman
127. Gael Alcock
128. Whit Ingram
129. Jordan Burns
130. John Givens
131. Avram Gury Arye
132. Madeleine Lorie
133. Richard Wallace
134. Peter Adelson
135. Linda Kanat
136. Lisa and Tom Goodman
137. Nancy Carleton
138. Igor Tregub, on behalf of the Sierra Club, North Alameda County
139. Tami Boulet and Nice Rizza
140. Julia Cato
141. Katharine Bierce
142. Judy Nakadegawa
143. Bill Weber
144. Laura Fantone
145. Thomas Luce
146. David Brandon
147. Sarah Bell
148. Phil Allen
149. Aaron Davidman
150. Pamela Doolan
151. Boona Cheema
152. Willie Phillips
153. Assemblymember Buffy Wicks
154. Cupertino For All
155. Michael Caplan
156. PK Drake
157. Brad Wiblin, on behalf of Bridge Housing
158. Phil Sanders
159. Todd Darling
160. Christine Cosgrove
161. Julianna Dickey
162. Lee Bishop
163. Sari Broner
164. Jonathan Bailey
165. Sharon Entwistle



166. Kenneth Schmier
167. Phoebe Sorgen
168. Sean McMahon
169. Zoe Siegel
170. Roger Studley
171. Laurie Snowden and Charles Smith
172. Ceara and Jim Brencic
173. Nicole Chabot
174. Dave Blake
175. Susan Henderson
176. Linda and Elliot Halpern
177. Jonathan Kevles
178. Dennis Mulqueeney
179. PK Drake
180. Mary White
181. Chimey Lee
182. Anne Torney
183. Molly Mermin
184. Dawn Thomas
185. Susan Pownall
186. Richard Wallace and Katharina Kaiser
187. George Porter
188. TM Scruggs
189. Elisa Mikiten

**Item #2: Initiation of Participatory Planning for Berkeley's Regional Housing Needs Allocation (RHNA)**

190. Madeleine Shearer
191. Eric Arens
192. Linda Franklin
193. Sylvia Spears
194. Carla Woodworth
195. Candace Hyde-Wang
196. Lynda Caesara
197. Susan Scherer
198. Nicole Chabot
199. Michael Katz
200. Ellen Hahn
201. Holly Scheider
202. Joan Hollinger
203. Summer Brenner
204. Cindy Shamban
205. Ellen Goldblatt
206. Patrick Sheahan
207. Brian Gilbane
208. Karen Harrington
209. Harvey Smith
210. Sallie Hanna-Rhyne
211. Nico Calavita

212. Aimee Baldwin
213. Renee
214. Jon Wizard, on behalf of YIMBY Law
215. Daniella Thompson
216. Harvey Smith
217. Alison Huetter
218. Vicki Sommer
219. Jeane Brenna
220. Susan Rawlins
221. Michael Frantz
222. Nancy Klein
223. Howard Foster
224. Stephen Wood
225. David Brandon
226. Carla Woodworth
227. George Porter
228. Meryl Siegal
229. Lee Ann Weber
230. Stanley Goldberg
231. 23 similarly-worded form letters

# BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

MONDAY, MARCH 29, 2021

4:00 P.M.

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

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

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

*Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this closed session meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.*

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/81680629249>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial 1-669-900-9128 or 1-877-853-5257 (Toll Free); enter Meeting ID: 816 8062 9249. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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## Preliminary Matters

**Roll Call:** 4:02 p.m.

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

**Absent:** Kesarwani, Taplin, Harrison

Councilmember Kesarwani present at 4:06 p.m.

Councilmember Taplin present at 4:06 p.m.

Councilmember Harrison present at 4:08 p.m.

**Public Comment - Limited to items on this agenda only – 2 speakers**

## CLOSED SESSION:

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

### 1. CONFERENCE WITH LABOR NEGOTIATORS; GOVERNMENT CODE SECTION 54957.6

Negotiators: Dee Williams-Ridley, City Manager, Paul Buddenhagen, Deputy City Manager, David White, Deputy City Manager, LaTanya Bellow, Human Resources Director, Dania Torres-Wong, Chief Labor Negotiator, Burke Dunphy.

Employee Organizations: International Brotherhood of Electrical Workers (IBEW), Local 1245, SEIU 1021 Community Services and Part-time Recreation Activity Leaders, Public Employees Union Local 1.

**Action:** No reportable action taken.

## OPEN SESSION:

No reportable action taken.

## Adjournment

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

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

Adjourned at 6:39 p.m.

I hereby certify that the foregoing is a true and correct record of the City Council closed session meeting held on March 29, 2021.

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Mark Numainville  
City Clerk

**MINUTES**  
**BERKELEY CITY COUNCIL SPECIAL MEETING**  
**TUESDAY, MARCH 30, 2021**  
**4:30 P.M.**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

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

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

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

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/82173560000>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

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## Preliminary Matters

**Roll Call:** 4:34 p.m.

**Present:** Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, Arreguin

**Absent:** Bartlett, Droste

Councilmember Bartlett present at 4:35 p.m.

Councilmember Droste present at 4:38 p.m.

**Public Comment - Limited to items on this agenda only – 2 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:** City Attorney

b. **Title of position to be filled:** Director of Planning and Development

**Action:** No reportable action taken.

## OPEN SESSION:

Public Reports of actions taken pursuant to Government Code section 54957.1.

No reportable action taken.

## Adjournment

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

**Vote:** All Ayes.

Adjourned at 6:25 p.m.

I hereby certify that the forgoing is a true and correct record of the special closed meeting of March 30, 2021 as approved by the Berkeley City Council.

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Rose Thomsen, Deputy City Clerk

## Supplemental Communications 3

### Item #1b: Title of position to be filled: Director of Planning and Development

1. Charlene Woodcock
2. Jennifer Cole

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, March 30, 2021**  
**6:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

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

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

*Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.*

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*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. 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:** 6:40 p.m.

**Present:** Kesarwani, Taplin, Hahn, Wengraf, Robinson, Droste, Arreguin

**Absent:** Bartlett, Harrison

Councilmember Bartlett present at 6:42 p.m.

Councilmember Harrison present at 6:46 p.m.

### **Ceremonial Matters:**

1. Recognition of Maia Small for organizing volunteer efforts at the Golden Gate Fields COVID-19 vaccination site
2. Recognition of April 10, 2021 as Dolores Huerta Day

### **City Manager Comments:**

The City Manager provided an update on the Reimaging Public Safety process.

**Public Comment on Non-Agenda Matters:** 9 speakers.

## **Consent Calendar**

**Public Comment on Consent Calendar and Information Items Only:** 17 speakers.

**Action:** M/S/C (Arreguin/Robinson) to accept revised material from Councilmember Taplin on Items 20, 22, and 23.

**Vote:** All Ayes.

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

**Vote:** All Ayes.



## Consent Calendar

- 1. Resolution Reviewing and Ratifying the Proclamation of Local Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution reviewing the need for continuing the local emergency due to the spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19) and ratifying the Proclamation of Local Emergency issued by the Director of Emergency Services on March 3, 2020, initially ratified by the City Council on March 10, 2020, and subsequently reviewed and ratified by the Council on April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020 and February 9, 2021.  
**Financial Implications:** See report  
Contact: Farimah Brown, City Attorney, (510) 981-6950  
**Action:** Adopted Resolution No. 69,767–N.S.
- 2. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the council meetings of February 2, 2021 (closed), February 9, 2021 (closed and regular), February 16, 2021 (closed and special), February 23, 2021 (special and regular) and February 25, 2021 (closed).  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Approved the minutes as submitted.
- 3. Police Accountability Board – Ordinance Amendment for Leaves of Absence and Alternate Commissioner; Amending BMC Chapter 3.02**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance amending Berkeley Municipal Code Section 3.02.030 to provide for leaves of absence for members of the Police Accountability Board and Berkeley Municipal Code Section 3.02.035 to provide for a designated council-approved alternate to serve when a regular member is on a leave of absence.  
**Financial Implications:** See report  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Adopt first reading of Ordinance No. 7,757–N.S. Second reading scheduled for April 20, 2021.

## Consent Calendar

- 4. Contract Amendments: Contract No. 088999-1: Center for Independent Living  
Contract No. 052129-1: Pacific Center for Human Growth and Contract No. 122380-1: Covenant House California – YEAH! Program  
From: City Manager**
- Recommendation:** Adopt three Resolutions authorizing the City Manager to execute amendments for the following contracts that are funded through State of California Mental Health Services Act (MHSA) Prevention and Early Intervention (PEI) monies, increasing each contract as outlined below, and extending the contracts through June 30, 2021:
1. Increasing MHSA PEI Contract No. 088999 -1 with Center for Independent Living (CIL) in the amount of \$8,011 for a total contract amount not to exceed \$288,630 for trauma support services for senior citizens;
  2. Increasing PEI ERMA Contract No. 052129-1 with Pacific Center for Human Growth in the amount of \$8,011 for a total contract amount not to exceed \$315,150 for trauma support services for Lesbian, Gay, Bi-sexual, Transgender, Queer/Questioning, Intersex, Agender, Plus other (LGBTQIA+) individuals;
  3. Increasing MHSA PEI Contract No. 122380-1 with Covenant House California-YEAH! Program, in the amount of \$8,041 for a total contract amount not to exceed \$315,150 for trauma support services for Transition Age Youth (TAY).
- Financial Implications:** Mental Health Services Act - \$24,063  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- Action:** Adopted Resolution No. 69,768–N.S. (Contract No. 088999 -1); Resolution No. 69,769–N.S. (Contract No. 052129-1); and Resolution No. 69,770–N.S. (Contract No. 122380-1).
- 5. Contract No. 120650-1 Amendment: Covenant House California – YEAH! Program  
From: City Manager**
- Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment for the following Contract No. 120650-1 with Covenant House California – YEAH! Program that is funded through State of California Mental Health Services Act (MHSA) Community Services and Supports (CSS) monies, increasing the contract amount by \$30,714, for a contract amount not to exceed \$878,142, and extending the contract through June 30, 2021.
- Financial Implications:** Mental Health Services Act Fund - \$30,714  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- Action:** Adopted Resolution No. 69,771–N.S.

## Consent Calendar

- 6. Designating City's Labor Negotiators Under Govt. Code Section 54957.6**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution establishing a standing list of representatives of the City of Berkeley designated to participate in Closed Sessions with the City Council to discuss labor negotiations with certain unions and unrepresented employees for negotiations between January 1, 2021 and December 31, 2021  
**Financial Implications:** None  
 Contact: LaTanya Bellow, Human Resources, (510) 981-6800  
**Action:** Adopted Resolution No. 69,772–N.S.
- 7. Side-Letter Agreement: Additional Emergency Paid Sick Leave and Layoff Protection for Employees in the Public Employee Union, Local 1/AFSCME Council 57**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing City Manager to execute a side-letter agreement to provide 80 hours of additional Emergency Paid Sick Leave (EPSL) and layoff protection through June 30, 2021 for Employees represented by the Public Employee Union, Local 1/AFSCME Council 57 (“Local 1”).  
**Financial Implications:** See report  
 Contact: LaTanya Bellow, Human Resources, (510) 981-6800  
**Action:** Adopted Resolution No. 69,773–N.S.
- 8. Contract No. 32100021 Amendment: Telfords for Tyler Munis ERP System (locally referred to as ERMA) Implementation Support**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to authorize one-time funding of \$80,000 for a proposed amendment to Contract No. 32100021 with Telfords, for Consulting Services for Tyler Munis ERP system project management and implementation support services to fund the ERMA implementation support contract, and extend the contract to December 30, 2021.  
**Financial Implications:** Various Funds - \$80,000  
 Contact: LaTanya Bellow, Human Resources, (510) 981-6800  
**Action:** Adopted Resolution No. 69,774–N.S.
- 9. Contract No. 047162-1 Amendment: ESI Group for the IBM Hardware and Software Lease**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 047162-1 with ESI Group for leasing, maintenance, and technical support for International Business Machines (IBM) hardware lease and software maintenance and support, increasing the current contract by \$120,000, for a total not to exceed \$2,154,769 from June 2, 2003 through June 30, 2022.  
**Financial Implications:** IT Cost Allocation Fund - \$120,000  
 Contact: Savita Chaudhary, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 69,775–N.S.

## Consent Calendar

- 10. Contract No. 100547-1 Amendment: Tyler Technologies, Inc. for the Open Data Portal's (ODP) Hosting Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 100547-1 with Tyler Technologies, Inc., for the purposes of hosting the City's Open Data Portal, increasing the amount by \$147,991 for a total contract amount not to exceed \$402,961 and extending the term through June 30, 2024.  
**Financial Implications:** IT Cost Allocation Fund - \$147,991  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 69,776–N.S.
- 11. Contract No. 105921-1 Amendment: TruePoint Solutions, LLC for Accela Professional Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 105921-1 with TruePoint Solutions, LLC for professional services, increasing the amount by \$235,000, for a total not-to-exceed amount of \$852,200, and extending the term by two years for the term beginning June 1, 2015 to June 30, 2023.  
**Financial Implications:** Various Funds - \$235,000  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 69,777–N.S.
- 12. Contract No. 107364-1 Amendment: Verint Systems Inc. for Customer Relationship Management (CRM) Software Maintenance**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 107364-1 with Verint Systems, Inc. for CRM software licensing, maintenance, and support, increasing the amount by \$68,440 for a total contract amount not-to-exceed \$1,054,187 from March 23, 2007 through June 30, 2023.  
**Financial Implications:** IT Cost Allocation Fund - \$68,440  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 69,778–N.S.

## Consent Calendar

- 13. Contract No. 32000177 Amendment: NextRequest for Public Records Act (PRA) Response Software**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 32000177 with NextRequest for software hosting, implementation, maintenance and related services for a Public Records Act Response Software System, for an additional amount not to exceed \$76,906, for a total not to exceed value of \$141,906, for the period commencing on July 1, 2019 through June 30, 2023.  
**Financial Implications:** IT Cost Allocation Fund - \$76,906  
 Contact: Savita Chaudhary, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 69,779–N.S.
- 14. Contract No. 32000004 Amendment: CBF Electric & Data for Wi-Fi Installation in City Facilities**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 32000004 (FUND\$ Contract No. 10934) with CBF Electric & Data (CBF) for Wi-Fi installation in City facilities, increasing the contract amount by \$25,000 for a total not-to-exceed amount of \$100,014 and extending the term from July 2, 2018 to June 30, 2022.  
**Financial Implications:** IT Cost Allocation Fund - \$25,000  
 Contact: Savita Chaudhary, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 69,780–N.S.
- 15. Contract No. 32000223 Amendment: Gray Quarter, Inc. for Accela Professional Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 32000223 with Gray Quarter, Inc. for professional services, increasing the amount by \$200,000, for a total not-to-exceed amount of \$249,500 and extending the term by one year to June 30, 2023.  
**Financial Implications:** Various Funds - \$200,000  
 Contact: Savita Chaudhary, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 69,781–N.S.
- 16. Protiviti Government Services: Using General Services Administration (GSA) Vehicle for Professional Services Purchase Orders**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to issue purchase orders with Protiviti Government Services for the purchase of professional services using the General Services Agency’s (GSA) purchasing vehicle no. GS-35F-0280X for an amount not to exceed \$512,000 through June 30, 2022.  
**Financial Implications:** General Fund - \$512,000  
 Contact: Savita Chaudhary, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 69,782–N.S.

## Consent Calendar

- 17. Contract No. 32000219 Amendment: Lind Marine for Removal of Derelict and Abandoned Vessels at the Berkeley Marina**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 32000219 with Lind Marine to remove and dispose derelict and abandoned vessels at the Berkeley Marina by increasing the contract amount by \$42,000; and authorizing additional contingency of \$4,200 for a total not-to-exceed amount of \$146,400; and contingency of \$42,800.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,783–N.S.
- 18. Utility Agreement: Construction of Gilman Street Sanitary Sewer Line Extension as part of the I-80 Gilman Street Interchange Improvements Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Authorizing the City Manager to execute a Utility Agreement (UA) with the Alameda County Transportation Commission (Alameda CTC) for the construction of a sanitary sewer line on Gilman Street (Project) to serve the future fieldhouse restroom at the Tom Bates Regional Sports Complex; and 2. Authorizing the City Manager to issue City funding to Alameda County Transportation Commission (Alameda CTC) in accordance with the UA in amount not to exceed \$720,000.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,784–N.S.
- 19. Contract No. 10874D Amendment: Street Level Advisors for Development Fee Feasibility Analysis**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 10874D with Street Level Advisors, to analyze the impact of fees and other variables on development project feasibility and to gather additional stakeholder input, increasing the contract amount by \$70,000 to a new total not-to-exceed contract amount of \$295,400, and extending the contract period to December 31, 2023.  
**Financial Implications:** See report  
Contact: Jordan Klein, Planning and Development, (510) 981-7400  
**Action:** Adopted Resolution No. 69,785–N.S.

## Council Consent Items

- 20. Budget Referral – Police Foot/Bike Patrol in West and South Berkeley**  
**From: Councilmember Taplin (Author), Councilmember Bartlett (Co-Sponsor), Mayor Arreguin (Co-Sponsor)**  
**Recommendation:** Refer to the FY 2021-22 Budget Process to establish funding for police foot patrol or bicycle officers to cover West Berkeley as defined in the West Berkeley Plan, which includes portions of Berkeley Police Department Beats 11-16; plus in South Berkeley, cover Berkeley Police Department Beats 9, 10 and 11. In addition, consider the possibility of a deputized Community Service Officer, who can issue citations and make arrests, and explore the inclusion of Specialized Care Unit currently under consideration in the City Manager’s Reimagining Public Safety initiative.  
**Financial Implications:** See report  
 Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Approved recommendation as revised in Supplemental Communications Packet #3 from Councilmember Taplin to include Berkeley Police Department Beat 8.
- 21. Budget Referral: Funding STOP Signs at Dwight Way and California Street**  
**From: Councilmember Taplin (Author)**  
**Recommendation:** That the City Council refers to the budget process the funding of two (2) STOP signs at the west and east ends of the intersection of Dwight Way and California Street and refers the City Manager to oversee the expedited installation of these STOP signs.  
**Financial Implications:** See report  
 Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Councilmembers Harrison and Bartlett added as co-sponsors. Approved recommendation.
- 22. Letter to Google Requesting Commercial Truck Routes on Google Maps**  
**From: Councilmember Taplin (Author), Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** Send a letter to Google headquarters in Mountain View, CA, to request the inclusion of commercial truck routes on the Google Maps platform.  
**Financial Implications:** None  
 Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Approved recommendation as revised in Supplemental Communications Packet #3 from Councilmember Taplin to include bicycle boulevards to the request for inclusion on maps, and include the Waze navigation app to the request.

## Council Consent Items

- 23. Discussion on East Bay Paratransit and the Transportation Needs of Berkeleyans with Disabilities**  
**From: Councilmember Taplin (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** Refer the Disability Commission and the Transportation Commission to hold a joint public discussion on the use, effectiveness, and accessibility of East Bay Paratransit as well as the transportation needs of the members of our community with disabilities and seniors, and return recommendations to Council.  
**Financial Implications:** See report  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Approved recommendation as revised in Supplemental Communications Packet #3 from Councilmember Taplin to include the Commission on Aging as a co-host of the public discussion.
- 24. Providing our Unhoused Community with Fire Extinguishers** *(Reviewed by the Public Safety Committee)*  
**From: Councilmember Davila (Author)**  
**Recommendation:** Direct the City Manager to use existing homeless services funding to develop a program to pro-vide fire extinguishers, fire prevention tools and deploy them through the community based home-less services providers to distribute to our unhoused community. Short term referral to additionally, require some elements of this program be deployed immediately, with a full program deployment within six months.  
*Policy Committee Recommendation: Send the item to City Council with a qualified positive recommendation to refer the item to the City Manager and the Disaster and Fire Safety Commission to consider fire extinguishers and other fire prevention tools such as wool blankets.*  
**Financial Implications:** See report  
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120  
**Action:** Approved the recommendation of the Public Safety Committee.
- 25. Budget Referral: Allocate Funding for a New Project Coordinator Position Within the Public Works Department to Help Implement the Electric Mobility Roadmap and Other Climate Initiatives**  
**From: Councilmember Harrison (Author)**  
**Recommendation:** Refer to the June 2021 budget process: 1. Approximately \$198,386 from the General Fund for a new Community Development Project Coordinator position (1.0 FTE) within Public Works.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Approved recommendation.



## Council Consent Items

- 26. Support for AB 20: Corporate-Free Elections Act**  
**From: Councilmember Robinson (Author), Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** Send a letter to Assemblymember Alex Lee, Assemblymember Buffy Wicks, and Senator Nancy Skinner in support of Assembly Bill 20, which would prohibit business entities from making campaign contributions to candidates running for elective office.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170  
**Action:** Approved recommendation.
- 27. Support of AB 37: Vote-by-Mail Ballots**  
**From: Councilmember Robinson (Author), Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** Send a letter to Assemblymember Marc Berman, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Assembly Bill 37, which would require counties to send vote-by-mail ballots to all voters for every election.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170  
**Action:** Councilmember Kesarwani added as a co-sponsor. Approved recommendation.
- 28. Support for AB 854: Ellis Act Reform**  
**From: Councilmember Robinson (Author)**  
**Recommendation:** Send a letter to Assemblymember Alex Lee, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Assembly Bill 854, which would make nonsubstantive changes to the Ellis Act.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170  
**Action:** Councilmembers Harrison and Taplin, and Mayor Arreguin added as co-sponsors. Approved recommendation as revised in Supplemental Communications Packet #1 from Councilmember Robinson to reflect amended state legislation language.

## Action Calendar – Public Hearings

**29. California Municipal Finance Authority Bond Financing for 2870 Adeline Street, Berkeley, CA (Harriet Tubman Terrace Apartments)**

**From: City Manager**

**Recommendation:** Conduct a public hearing under the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and the Internal Revenue Code of 1986, and upon conclusion, adopt a Resolution approving the issuance of the bonds by the California Statewide Communities Development Authority (CSCDA) for the benefit of the 2870 Adeline Street rental housing development.

**Financial Implications:** See report

Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

**Public Testimony:** The Mayor opened the public hearing. 4 speakers. M/S/C (Arreguin/Wengraf) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Bartlett/Hahn) to adopt Resolution No. 69,786–N.S., including revised material in Supplemental Communications Packet #2 from the Health, Housing, and Community Services Department to clarify that the bond issuer is the California Statewide Communities Development Authority (CSCDA).

**Vote:** All Ayes.

## Council Action Items

**30. Introduce an Ordinance permanently banning the use of less lethal weaponry, chemical irritants, smoke projectiles, acoustic weapons, directed energy weapons, water cannons, disorientation devices and ultrasonic cannons used by the police on civilians (Reviewed by the Public Safety Committee)**

**From: Councilmember Davila (Author)**

**Recommendation:** Direct the City Manager and City Attorney to prepare the attached ordinance: “Prohibition On The Use Of Certain Munitions Ordinance” for first reading for the October 27, 2020 Regular City Council Meeting.

*Policy Committee Recommendation: Send the item to City Council with a negative recommendation and recommend that Council take no action.*

**Financial Implications:** See report

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

**Action:** Moved to Consent Calendar. Approved the recommendation of the Public Safety Committee to take no action on the item.

## Council Action Items

- 31. Recognize the Rights of Nature** *(Reviewed by Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*  
**From: Councilmember Davila (Author)**  
**Recommendation:** Adopt a resolution to recognize that the natural living world has a right to exist, thrive, regenerate and evolve its life cycles; to protect the ecosystems upon which our own vitality depends; and to transform our human relationship with nature from a property-based to a legal rights-bearing entity.  
*Policy Committee Recommendation: Send the item to City Council with the qualified positive recommendation revising the final resolved clause of the draft resolution to place obligation on the City and not the residents.*  
**Financial Implications:** See report  
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120  
**Action:** Moved to Consent Calendar. Referred Item 31 to the Peace and Justice Commission for further analysis, and that the Commission is to return to Council with the results of its analysis.

## Information Reports

- 32. FY 2020 Fourth Quarter Investment Report: Ended June 30, 2020**  
**From: City Manager**  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Received and filed.
- 33. FY 2021 First Quarter Investment Report: Ended September 30, 2020**  
**From: City Manager**  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Received and filed.
- 34. Referral Response: Second Dwelling Unit/Accessory Dwelling Unit Pilot Program to House the Homeless**  
**From: City Manager**  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Received and filed.
- 35. Report on Workers' Compensation Annual Program Review FY 2019-2020**  
**From: City Manager**  
Contact: LaTanya Bellow, Human Resources, (510) 981-6800  
**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda - None.**

## Adjournment

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

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

Councilmember Hahn absent 8:38 – 8:39 p.m.

Adjourned at 8:39 p.m.

I hereby certify that the forgoing is a true and correct record of the regular meeting of March 30, 2021 as approved by the Berkeley City Council.

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Rose Thomsen, Deputy City Clerk

## Communications

### Zoning Revisions

1. Stephanie Wade, on behalf of the Park Hills Association
2. Allen Romano
3. Avram Gury Arye (2)
4. Gail Nankin
5. Livable California

### Affordable Housing Overlay and Housing as a Human Right

6. Gabriel McAdams
7. Gerard Ramm

### Tax Disparities Due to Square Footage

8. Bob Flash

### Hopkins Corridor Study and Street Conditions

9. Todd Andrew (2)
10. Councilmember Hahn

### Crime at People's Park

11. Kristen Barneich
12. Michele Shafroth

### DAWN Native Plants at Cesar Chavez Park

13. Carol Denney

### Berkeley Asphalt Company

14. Mike Perlmutter, on behalf of Clean Air Berkeley

**URL's Only**

15. Russbumper (2)

**Supplemental Communications and Reports 1**

**Item #28: Support for AB 854: Ellis Act Reform**

16. Revised material, submitted by Councilmember Robinson

**Supplemental Communications and Reports 2**

**Item #29: California Municipal Finance Authority Bond Financing for 2870 Adeline Street, Berkeley, CA (Harriet Tubman Terrace Apartments)**

17. Supplemental material, submitted by HHCS

**Item #31: Recognize the Rights of Nature**

18. Kelly Hammargren

19. Donald Goldmacher

20. Madeleine Shearer (2)

21. Sally Nelson

22. Cindy Shamban

23. Karl Knobler

24. Lisa Bruce

**Supplemental Communications and Reports 3**

**Item #20: Budget Referral: Police Foot/Bike Patrol in West and South Berkeley**

16. Supplemental material, submitted by Councilmember Taplin

17. Elisa Mikiten

18. Chimey Lee

**Item #22: Letter to Google Requesting Commercial Truck Routes on Google Maps**

19. Supplemental material, submitted by Councilmember Taplin

**Item #23: Discussion on East Bay Paratransit and the Transportation Needs of Berkeleyans with Disabilities**

20. Supplemental materials, submitted by Councilmember Taplin

21. George Porter

**Item #26: Support for AB 20: Corporate-Free Elections Act**

22. Barbara Gilbert

**Item #30: Introduce an Ordinance permanently banning the use of less lethal weaponry, chemical irritants, smoke projectiles, acoustic weapons, directed energy weapons, water cannons, disorientation devices and ultrasonic cannons used by the police on civilians**

23. Elisa Mikiten

**Item #31: Recognize the Rights of Nature**

- 24. Erin Diehm (2)
- 25. Margaretta Mitchell
- 26. Daniella Thompson
- 27. Cathleen Quandt
- 28. Patrick Sheahan
- 29. Summer Brenner
- 30. Ruth Morgan
- 31. Anne-Lise Francois

**Miscellaneous Communications**

**Proclamation**

- 32. Colin Arnold
- 33. Mayor's Office



Office of the City Manager

CONSENT CALENDAR  
April 20, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Amelia Funghi, Animal Services Manager  
 Subject: Contract No. 9236 Amendment: Freitas Landscaping and Maintenance for landscaping services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee amend contract number 9236 with Freitas Landscaping and Maintenance for landscaping services at the Berkeley Animal Shelter at Dona Spring Animal Shelter by adding \$25,000 through fiscal year 2024, and increasing the total contract to \$74,000 pending budget approval in fiscal years 2022 through 2024.

FISCAL IMPACTS OF RECOMMENDATION

Freitas Landscaping and Maintenance provides landscaping services for BACS at the Dona Spring Animal Shelter. The current contract ends June 30, 2021 and funds will be exhausted on April 30, 2021. Extending and increasing the contract will prevent an interruption in essential services. For fiscal year 2021, \$2,000 currently in the Animal Services budget will be added to bridge the funding gap between April 2021 and June 30, 2021. Subsequent years will be dependent on future budget allocations. The contract extension will be for FY 2021 – FY 2024 and the cost of \$25,000 will come from the Berkeley Animal Care Services General Fund budget, pending budget approvals.

CURRENT SITUATION AND ITS EFFECTS

Currently, BACS contracts with the Freitas Landscaping and Maintenance to provide monthly weed control, shrub pruning as well as irrigation inspection and maintenance. The Dona Spring Animal Shelter grounds include multiple areas of Bay Friendly foliage and shrubs as well as their respective irrigation systems. These Bay Friendly green areas require regular professional maintenance.

BACKGROUND

The grounds of the Dona Spring Animal Shelter contain plants and shrubs that were selected at the time of installation because they are both Bay Friendly and comply with the California Water Efficient Landscaping Ordinance. Because of their ecological function as well as their esthetic role, regular maintenance of these plants is required.

ENVIRONMENTAL SUSTAINABILITY

Plants and shrubs at the Dona Spring Animal Shelter are Bay Friendly, drought tolerant, non-invasive and provide filtration of surface level water.

RATIONALE FOR RECOMMENDATION

Plants and shrubs at the Dona Spring Animal Shelter must be maintained regularly in order to provide ecological and aesthetic benefit. Freitas Landscaping and Maintenance is well positioned to provide Bay Friendly landscaping practices.

ALTERNATIVE ACTIONS CONSIDERED

No alternative action was considered at this time.

CONTACT PERSON

Amelia Funghi, Manager, Animal Services, (510) 981-6603

Attachments:

1: Resolution



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

AMEND CONTRACT: FREITAS LANDSCAPING AND MAINTENANCE

WHEREAS, Freitas Landscaping and Maintenance is currently contracted to provide landscaping services for Berkeley Animal Care Services (BACS) animals at the Dona Spring Animal Shelter; and

WHEREAS, BACS has a need for regular maintenance of landscaped grounds, and

WHEREAS, the contract will be paid for from the General Fund.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to increase contract number 9236 with Freitas Landscaping and Maintenance by \$25,000 and extend it with any amendments for FY2021, FY2022, FY2023 and FY2024 for an amount not to exceed \$74,000, subject to city budget approvals.





Office of the City Manager

CONSENT CALENDAR

April 20, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley: City Manager

Submitted by: Amelia Funghi: Manager, Animal Services

Subject: Contract No. 105938-1 Amendment: Koefran Industries for Animal Disposal Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to extend and increase the current contract with Koefran Industries to remove and dispose of deceased animals for Berkeley Animal Care Services (BACS). The increase will be an additional \$110,000 through June 30, 2026, for a total contract amount not to exceed \$231,600 and subject to the city's Annual Appropriation Process.

FISCAL IMPACTS OF RECOMMENDATION

Koefran Industries is the sole provider of animal disposal services in Northern California and has contracted with the City of Berkeley to provide these services for more than 20 years. The current contract ends on June 30, 2021 and funds will be exhausted on April 30, 2021. \$3,000 in the current fiscal year's Animal Services general fund budget is available to bridge this funding gap. Extending and increasing the contract will prevent an interruption in essential services. The contract will be extended for a 5-year period, FY2021 through FY2026 and the annual cost of \$20,400 will come from the Berkeley Animal Care Services General Fund budget, pending future annual appropriation process.

CURRENT SITUATION AND ITS EFFECTS

Currently, BACS contracts with the Koefran Industries to provide weekly pick up and disposal of deceased animals at a cost of \$1,700 per month or \$20,400 per year. BACS has a constant influx of deceased animals that need to be disposed of by a professional service and handles approximately 450 deceased animals annually. Most of these are deceased wildlife and are not associated with the shelter.

BACKGROUND

BACS must dispose of deceased animals in a sanitary and approved manner. Koefran Industries is the only service providing pick up and disposal of deceased animals in

Northern California and has contracted with the City of Berkeley for many years to provide these services.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

BACS must dispose of deceased animals and Koefran Industries is the only service providing pick up and disposal of deceased animals in Northern California

ALTERNATIVE ACTIONS CONSIDERED

No alternative action was deemed feasible at this time.

CONTACT PERSON

Amelia Funghi, Manager, Animal Services, (510) 981-6603

Attachments:

1: Resolution

RESOLUTION NO. ~~##,###~~-N.S.  
CONTRACT NO. 105938-1 AMENDMENT: KOEFRAN INDUSTRIES

WHEREAS, Koefran Industries is currently contracted to provide pick up and disposal of deceased animals for Berkeley Animal Care Services (BACS) animals at the Dona Spring Animal Shelter; and

WHEREAS, BACS has a constant influx of deceased animals that need sanitary, appropriate disposal, and

WHEREAS, the contract will be paid for from the General Fund.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to increase the existing contract with Koefran Industries by \$110,000 and extend it with any amendments through June 30, 2026 for an amount not to exceed amount of \$231,600, subject to the city's Annual Appropriation Process.





Office of the City Manager

CONSENT CALENDAR  
APRIL 20, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams Ridley, City Manager  
 Submitted by: Amelia Funghi, Animal Services Manager  
 Subject: Contract No. 32100053 Amendment: Orsolya Kuti, DVM for services at the Dona Spring Animal Shelter

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 3210053 with Orsolya Kuti, DVM adding \$4,800 to provide free spay and neuter surgeries at the Dona Spring Animal Shelter to eligible low/no-income and homeless pet owners who reside in Berkeley, Albany, Emeryville or Piedmont. Authorize the receipt of additional donations up to a total of \$40,000 over the three year period of FY 2021, FY 2022 and FY 2023, for a total contract amount not to exceed \$220,000.

FISCAL IMPACTS OF RECOMMENDATION

Berkeley Animal Care Services (BACS) holds a contract ending July 14, 2023 in the amount of \$180,000 with Orsolya Kuti, DVM to provide on-site veterinary services at the Dona Spring Animal Shelter. The amendment in the amount of \$4,800 was deposited in the FY 2021 budget in the Animal Shelter fund (Fund 115-21-203-000-0000-000-424-612410) and will be expended from the same account. Friends of BACS has donated \$4,800 to BACS to be used for Dr. Kuti to provide free spay/neuter surgeries to eligible pet owners two days per month for a period of four months. The funds will be appropriated in the Second Amendment to FY 2021 Annual Appropriations Ordinance. The donated funds will be deposited into Animal Shelter Fund: 115-21-203-000-0000-000-000-481110-. Based on demand for service, Friends of BACS may continue to donate funds in FY 2022 and/or FY 2023, not to exceed \$40,000 for the same purpose. No additional City funds will be used in the amended contract.

CURRENT SITUATION AND ITS EFFECTS

Many low/no-income pet owners attempt to access spay and neuter services for their pets but are unable to afford the cost of surgery through local veterinary clinics. There are two low cost, high volume spay and neuter clinics in the East Bay: Fix Our Ferals in Richmond and East Bay SPCA in Oakland. The demand for low cost spay and neuter surgeries at these two clinic far outweighs the available supply of appointments. Both clinics consistently have a four month waiting period for available appointments. As a result of this situation, many pets that are at high risk of reproducing will remain unfixed and reproduce due to lack of affordable and free spay/neuter services.

### BACKGROUND

BACS currently contracts with Dr. Orsolya Kuti, and the contracted Scope of Services allows for Dr. Kuti to provide on-site veterinary services at the Dona Spring Animal Shelter two days per week for a maximum of 16 hours per week. The majority of these hours are spent providing exams, procedures and spay/neuter surgeries for animals in the shelter. Typically, time allows for two to four spay/neuter surgeries to be provided each week for non-shelter animals that are owned by low/no income or homeless pet owners. While these surgeries help the individual pet owners, these two to four surgeries are of minimal consequence compared to the need for free spay/neuter.

### RATIONALE FOR RECOMMENDATION

The East Bay Area demand for free spay/neuter surgeries for low/no income and homeless pet owners far outweighs the availability. BACS surgery clinic is currently in use only two days per week. Dr. Orsolya Kuti is available for an additional two days per month to provide spay/neuter surgeries. Friends of Berkeley Animal Services has donated \$4,800 to provide spay/neuters for an additional two days per month for four months with the option to donate a total up to \$40,000 total over combined years FY 2021, FY2022 and FY 2023

### ALTERNATIVE ACTIONS CONSIDERED

Consideration was given to requesting additional funds for the Spay Neuter Your Pet (SNYP) city funded grant that is awarded to community nonprofits that serve low/no income and homeless pet owners. This grant subsidizes the recipient organizations \$120 per surgery enabling them to provide surgeries to eligible pet owners for free. Because these organizations rely on the East Bay spay/neuter clinics that have four month waiting lists, this alternative would do nothing to increase the supply of available free spay/neuter surgeries.

### ENVIRONMENTAL SUSTAINABILITY

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

### CONTACT PERSON

Amelia Funghi, Animal Services Manager, (510) 981-6603

### Attachments:

1. Resolution
2. Contract Amendment



RESOLUTION NO.

AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AND AMENDMENTS WITH ORSOLYA KUTI, DVM TO INCLUDE FUNDS DONATED BY FRIENDS OF BERKELEY ANIMAL CARE SERVICES TO PROVIDE NO COST SPAY AND NEUTER SURGERIES TO ELIGIBLE PET OWNERS FOR FY2021, FY2022, FY2023 WITH A TOTAL CONTRACT AMOUNT NOT TO EXCEED \$220,000

WHEREAS, The City of Berkeley contracts with Orsolya Kuti, DVM to provide on-site veterinary services at the Dona Spring Animal Shelter; and

WHEREAS, The need for free spay/neuters among low/no income and homeless pet owners residing in Berkeley, Albany, Emeryville and Piedmont exceeds the available supply; and

WHEREAS, Friends of Berkeley Animal Services has donated \$4800 to be used to amend the contract with Orsolya Kuti, DVM; and

WHEREAS, Friends of BACS can continue to donate funds in FY2022 and/or FY2023, based on demand for service for a total not to exceed \$40,000; and

WHEREAS, Donated funds will be deposited in the Animal Shelter fund (Fund 115-21-203-000-0000-000-424-612410) and will be expended from the same account.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute Contract No. 32100053 and amendments with Orsolya Kuti, DVM for veterinary services for FY2021-FY2023 in the amount of \$220,000.

AMENDMENT TO CONTRACT

THIS CONTRACT is entered into on May 1, 2021 between the CITY OF BERKELEY ("City"), a Charter City organized and existing under the laws of the State of California, and Orsolya Kuti, DVM ("Contractor") a sole proprietor, doing business at 3225 Idaho Street Berkeley CA 94702.

WHEREAS, City and Contractor previously entered into Contract Number 32100053, dated July 15, 2020, which Contract was authorized by the Berkeley City Council by the City Manager of the City of Berkeley.

WHEREAS, on April 20, 2021, by Resolution No. -N.S., the Berkeley City Council authorized amendment of said Contract as set forth below.

THEREFORE, City and Contractor mutually agree to amend said Contract as follows:

1. Section 1 is amended to read as follows:

**SCOPE OF SERVICES**

Contractor agrees to provide all services described in Exhibit A.2 in accordance with stated terms and conditions. Exhibit A.2 is attached and made part of this contract

2. Section 2 is amended to read as follows:

**PAYMENT**

For services referred to in Section 1, City will pay Contractor a total amount not to exceed \$ 220,000. City shall make payments to Contractor in accordance with provisions described in Exhibit B.2, which is attached to and made part of this Contract.

TERM

This Contract shall begin on May1, 2021 and end on July 14, 2023\_ . The City  
Manager of the City may extend the term of this Contract by giving written notice.

In all other respects, the Contract dated July 15, 2020, shall remain in full force and  
effect.

IN WITNESS WHEREOF, City and Contractor have executed this Contract as  
of the date written in the first paragraph of this Contract.

CITY OF BERKELEY

By \_\_\_\_\_  
City Manager

THIS CONTRACT HAS BEEN  
APPROVED AS TO FORM BY  
THE CITY ATTORNEY FOR  
THE CITY OF BERKELEY  
10/2019

Registered on behalf of the City Auditor by:  
\_\_\_\_\_  
Finance Department

Attest:

\_\_\_\_\_  
Deputy City Clerk

CONTRACTOR

\_\_\_\_\_  
Name (Printed)

By \_\_\_\_\_  
Signature and Title

**EXHIBIT A.2****SCOPE OF SERVICES****1. Veterinary Services**

Veterinary services may include, but are not be limited to, examining shelter animals, diagnosing and treating sick or injured animals, and providing guidance to staff regarding follow-up treatment. Weekly services may include approximately 12-20 spay/neuter surgeries, 15 medical exams, and 4 other surgeries (e.g., dentals, laceration repair, lumpectomy).

**2. Schedule of Services**

Veterinary services shall be provided at the City Animal Shelter up to 3 days per week, 8 hours per day, not to exceed 24 hours per week.

**3. Administration of the Rabies Vaccination Program**

Contractor shall oversee administration of the rabies vaccination program and observe quarantined animals as requested by the shelter manager.

**4. Professional Assistance for Cruelty/Neglect Investigations**

Contractor shall provide professional evaluation and advice to Animal Services staff concerning the medical and health conditions of animals suspected to be the object of cruelty or neglect. If the City deems necessary, Contractor agrees to provide professional testimony in court for criminal or civil litigation cases.

**5. Co-sign for the Shelter's Controlled Drugs**

The contractor shall be licensed to act as co-signer for the purchase of controlled drugs at the City Animal Shelter as required by the Drug Enforcement Administration. Contractor shall maintain a current license on file with Animal Services.

**6. Training Shelter Staff**

Contractor agrees to provide training to the Animal Care Staff in the areas of animal first aid, neglect, infectious diseases, and euthanasia when necessary.

**7. Veterinarian of Record for Supply Distributors**

Contractor shall act as the Veterinarian of Record for the purpose of ordering medical supplies for the City Animal Shelter.

**8. Veterinarian of Record for Veterinary Premise License**

Contractor shall be the Veterinarian of Record for the purpose of maintaining a current Veterinary Premise license with the State of California. A copy of the veterinarian's current state license shall be posted at the Shelter.

**9. Backup services**

The contractor shall provide telephonic veterinary consulting for the managing Registered Veterinary Technician regarding the health of impounded animals in accordance with the California Veterinary Medical Practice Act.

**10. Act as Professional Liaison with the City of Berkeley Veterinary Community**

**EXHIBIT B.2**

PAYMENT

**The Total Contract is not to exceed \$220,000**

Veterinarian Hourly Fee: \$75

Site Specific Licenses:

DEA License: \$731 (Due Triennially)

CA Veterinary Medical Board Veterinary Premise License: \$200 (Due Annually)

Hourly rates are all inclusive.



Office of the City Manager

CONSENT CALENDAR  
April 20, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Eleanor Hollander, Acting Economic Development Manager  
 Subject: Contract No. 32100022 Amendment: Michael Arcega for San Pablo Park  
 Measure T1 Public Art Commission

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32100022 with Michael Arcega for additional artwork elements costing up to \$9,936 for a total contract amount not to exceed \$219,936. This is for the public art commission project located at San Pablo Park and funded by Measure T1.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the contract amendment will come from project contingency funds held in the Measure T1 Public Art Fund 511.

CURRENT SITUATION AND ITS EFFECTS

The original scope of work in the artist's contract called for a variety of artwork elements including the fabrication of 25 flower silhouettes to be installed at the chain link fence at the children's play area at San Pablo Park. The silhouettes were to be mounted with low profile backing hardware on the fence, which would be safe yet visible on the back side of the artwork. The artist proposes a change to produce duplicate flower silhouettes in order to sandwich mount the flower elements to the chain link fence, which would allow the artwork to look the same from both sides of the fence. The artist also proposes a change to produce full color signage that will include a key to the flower types that are featured in the artwork. This signage was not included in the original scope of work. The Civic Arts Program does provide standard artwork identification signage, but the format of the standard signage is limited to the artwork title, artist name and a brief description of the artwork, but what is proposed would provide additional educational and artistic enhancement to the public art work.

BACKGROUND

The City released a Request for Qualifications for public art associated with two Measure T1 projects (San Pablo Park and North Berkeley Senior Center) on September 11, 2018. The City received 42 applications and selected Michael Arcega's proposal to create a series of unique colorful metal benches and a variety of wall and fence mounted elements for San Pablo Park based upon the silhouettes of local flowering

plants. On December 20, 2019, the City entered into contract with Michael Arcega for an amount not to exceed \$210,000 for design development, structural engineering, fabrication, and installation of the proposed artwork at San Pablo Park. The original contract included a contingency of \$9,945. From this amount, \$3,456 was used to cover the cost of a thicker metal for the fabrication of the artwork elements. This left a balance on the contract contingency of \$6,489. The proposed change order for the duplication of the fence mounted flower silhouettes and to add the flower legend signage totals \$16,425. When the contract contingency balance is applied to this cost, it leaves a shortfall of \$9,936. This contract amendment will cover the shortfall to allow for the proposed project improvements. The funds will come from available project contingency being held in the Measure T1 Public Art Funds.

#### ENVIRONMENTAL SUSTAINABILITY

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

#### RATIONALE FOR RECOMMENDATION

This contract amendment allows the artist to implement an improved public art project for San Pablo Park including a more refined solution for attaching the flower silhouettes to the chain link fence, and provides an enhanced interpretive sign which will allow the public to more thoroughly engage with the artwork.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CONTACT PERSON

Jennifer Lovvorn, Chief Cultural Affairs Officer, (510) 981-7533

#### Attachments:

1: Resolution



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

CONTRACT NO. 32100022 AMENDMENT: MICHAEL ARCEGA FOR SAN PABLO  
PARK MEASURE T1 PUBLIC ART COMMISSION

WHEREAS, in 2018 the City issued a Request for Qualifications for public artwork associated with Phase One of the Measure T1 Bond Program, and Michael Arcega was selected to create public art at San Pablo Park; and

WHEREAS, on December 20, 2019, the City Manager authorized Contract No. 32100022 with Michael Arcega for an amount not to exceed \$210,000 for design development, structural engineering, fabrication, and installation of the proposed artwork at San Pablo Park; and

WHEREAS, the artist proposed additions to the public art project for San Pablo Park including a more refined solution for attaching the flower silhouettes to the chain link fence and an interpretive sign which will allow the public to more thoroughly engage with the artwork for an additional cost of \$9,936; and

WHEREAS, funding for the contract amendment will come from project contingency funds held in the Measure T1 Public Art Fund 511.

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. 32100022 with Michael Arcega for additional artwork elements costing up to \$9,936 for a total contract amount not to exceed \$219,936. A record signature copy of the contract and any amendments to be on file in the City Clerk Department.





Office of the City Manager

CONSENT CALENDAR  
April 20, 2021

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 April 20, 2021

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 \$1,581,000.

<u>PROJECT</u>	<u>Fund</u>	<u>Source</u>	<u>Amount</u>
Cazadero Jensen Dormitory	125	Playground Camp	<b>\$596,000</b>
Objective Standards for Mixed-use and Multi-family Residential Projects	011	General Fund	<b>\$125,000</b>
Glendale Ave Retaining Wall	134	Measure BB – Local Streets and Road	<b>\$660,000</b>
Finance Department Consultant	011	General Fund	<b>\$200,000</b>
<b>Total:</b>			<b>\$1,581,000</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

Formal Bid Solicitations and Request for Proposals  
Scheduled for Possible Issuance After Council  
Approval on April 20, 2021

CONSENT CALENDAR  
April 20, 2021

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) 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

Darryl Sweet, General Services Manager, Finance, 510-981-7329

### Attachments:

1: Formal Bid Solicitations and Request for Proposals Scheduled For Possible Issuance After Council Approval on April 20, 2021

- a) Cazadero Jensen Dormitory
- b) Objective Standards for Mixed-use and Multi-family Residential Projects
- c) Glendale Ave Retaining Wall
- d) Finance Department Consultant

Note: Original of this attachment with live signature of authorizing personnel is on file in General Services.

SPECIFICATIO N 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
21-11443-C	Cazadero Jensen Dormitory	4/20/2021	5/21/2021	Construction of Cazadero Camp Jensen Dormitory	\$596,000	125-52-543-581-0000-000-461- 662110 PRWEM16004	PRW	Liza McNulty 981-6437
<b>Dept TOTAL</b>					\$596,000			
21-11445-C	Objective Standards for Mixed-use and Multi- family Residential Projects	5/3/2021	5/24/2021	Consultant services to develop objective development standards for mixed- use and multi-family residential projects in order to comply with recently passed State housing laws and to improve customer service by clarifying regulations and streamlining the permitting process.	\$125,000	011-53-584-622-0000-000-441- 612990-	Planning and Development Department / Land Use Planning Division	Alene Pearson 510-981-7489
21-11448-C	Glendale Ave Retaining Wall	4/21/2021	5/21/2021	Project to replace a 53 year old retaining wall that supports a section of Glendale Avenue between La Loma Ave and Campus Drive.	\$660,000	FY 2022 Appropriation 134-54-623-673-0000-000-431- 663110 – PWENRW2001	PW Eng	Joe Enke 981-6411  Ricardo Salcedo 981-6407
<b>DEPT. TOTAL</b>					\$785,000			
21-11441-C	Finance Department Consultant	4/1/2021	4/30/2021	To hire temporary staff to help staff and manage the Revenue Collection Division of the Finance Department while the manager is on extended leave and also until positions are filled permanently.	\$200,000	011-33-324-341-0000-000-412- 612990-	Finance	Henry Oyekanmi 981-7326
<b>DEPT. TOTAL</b>					\$200,000			

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
GRAND TOTAL					\$1,581,000			



Office of the City Manager

CONSENT CALENDAR  
April 20, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Lisa Warhuus, Director, Health Housing and Community Services

Subject: Predevelopment Funding Recommendations: 2024 Ashby Avenue and 1708 Harmon Street

RECOMMENDATION

Adopt a Resolution:

1. Reserving predevelopment funding in the amount of:
  - a) \$1,198,960 for Community Housing Development Corporation/St. Paul AME's new construction development of affordable housing at 2024 Ashby Avenue; and
  - b) \$1,056,400 for Community Housing Development Corporation/Ephesians Church of God in Christ (ECOGIC)'s new construction development of affordable housing at 1708 Harmon Street.
2. Authorizing the City Manager, or her designee, to execute all original or amended documents or agreements to effectuate this action.

SUMMARY

The City received two predevelopment funding applications to develop affordable housing on local church sites: St Paul AME's 2024 Ashby Avenue and ECOGIC's 1708 Harmon Street. Each church has a partnership with the Community Housing Development Corporation (CHDC) and two development consultants, Turner Development Resources Group, Inc. (TDRG) and CEF Realty Advisors, Inc. (CEF).

The amount of predevelopment funding requested for each application is reasonable respective to the proposed size of each project. The budgeted items are appropriate for predevelopment and consistent with cost expectations. Staff did not identify any significant concerns with feasibility of the proposed predevelopment activities.

The Housing Advisory Commission recommended Council fund each predevelopment request at its February 10, 2021 special meeting.

FISCAL IMPACTS OF RECOMMENDATION

There are currently sufficient funds in the Housing Trust Fund (HTF) to support each predevelopment request, which would need to be approved by Council action. HTF Guidelines encourage applicants to request predevelopment loans between \$50,000

and \$500,000. However, loans of any size will be considered. HTF Guidelines recommend that commitments should be 10% or less of the balance of HTF funds available at the time of the request in order to ensure adequate development funding for projects in the pipeline. The current HTF balance is approximately \$6.4M, indicating a maximum recommended cap of \$640,000. However, in recent years, the City Council has approved larger predevelopment loans, such as those at 2012 Berkeley Way and 2001 Ashby Avenue, to account for escalating costs and needs.

**CURRENT SITUATION AND ITS EFFECTS**

At its February 10, 2021 meeting, the Housing Advisory Commission (HAC) adopted the following recommendations to fund two predevelopment applications a total of \$2,255,360:

- Action: M/S/C (Simon-Weisberg/Mendonca) to adopt the Housing Trust Fund Subcommittee’s recommendation to recommend Council approve Community Housing Development Corporation/St. Paul AME’s Predevelopment Loan Application request of \$1,198,960 for 2024 Ashby Avenue.  
Vote: Ayes: Fain, Johnson, Lee-Egan, Mendonca, Rodriguez, Sanidad, Sargent, and Simon-Weisberg. Noes: None. Abstain: Wolfe. Absent: None
- Action: M/S/C (Simon-Weisberg/Mendonca) to adopt the Housing Trust Fund Subcommittee’s recommendation to recommend Council approve Community Housing Development Corporation/Ephesians Church of God In Christ (ECOGIC)’s Predevelopment Loan Application request of \$1,056,400 for 1708 Harmon Street.  
Vote: Ayes: Fain, Johnson, Lee-Egan, Mendonca, Rodriguez, Sanidad, Sargent, and Simon- Weisberg. Noes: None. Abstain: Wolfe. Absent: None.

The construction of new affordable housing is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

**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. The proposed projects submitted by the respective partnerships are outlined in Table 1.

Table 1. Projects Overview

Sponsor	CHDC/St. Paul AME	CHDC/ECOGIC
Proposed borrower	St. Paul AME (St Paul AMCOB Development Partnership to be formed)	Ephesians Church of God in Christ (Ephesian COGIC Housing Development Partnership)



Majority control of partnerships	CHDC	CHDC
Address	2024 Ashby Ave.	1708 Harmon St.
Predevelopment request	\$1,198,960	\$1,056,400
Number of Units	62	54
Proposed Unit Type	61 one-bedrooms, 1 manager unit	30 Studios, 18 one-bedrooms, 5 two-bedrooms, 1 manager unit
Proposed funding sources	City, AHSC and tax credits	City, AHSC and tax credits (potentially other HCD Programs)
Projected City development loan	\$10,386,078	\$10,594,373
Total development cost per unit	\$672,021	\$640,454
Proposed Property Lease	99 year minimum long term lease by CHDC	Minimum of 65 years, with a max of 99 years

The availability of City development funds for the projected schedules is uncertain. The City will not have enough Measure O funds in the second issuance to fund both St. Paul AME and ECOGIC (projected combined total of \$21M), since the Council has already reserved \$15.5M for the 2001 Ashby development and prioritized an educator housing project sponsored by Berkeley Unified School District from that issuance, with a currently estimated NOFA amount of \$24.5M. Funds may not be available until the third issuance (anticipated for 2025). Long term funding availability may also be affected by the City’s commitments to developing the North Berkeley and Ashby BART sites as well as other pending pipeline projects.

The development team will further refine their funding plan during the predevelopment period and staff and Commission can review the proposal for development funds when ready. Generally, having site control and close proximity to BART and the surrounding amenities (e.g., senior center, elementary schools, Berkeley Bowl) are boons to long term feasibility.

There is a high level of support for affordable housing in the Adeline Corridor and a high level of demand for affordable housing in Berkeley. This indicates a low market risk and high-level of community acceptance for both projects.

**ENVIRONMENTAL SUSTAINABILITY**

2024 Ashby Ave. and 1708 Harmon St. are both proposed as affordable infill housing, which is typically regarded as a more sustainable form of development. Both sites are in

close proximity to Ashby BART station and ideal candidates to meet the City's climate action goals by increasing housing opportunities near public transit.

#### RATIONALE FOR RECOMMENDATION

Both projects would help meet City goals of creating affordable housing in Berkeley, through new construction of units with deed-restricted affordability. The proposed projects are consistent with the affordable housing goals outlined in the Adeline Corridor Specific Plan. Providing predevelopment funding now will help the developers move forward with feasibility studies and designs that will support their applications for non-City development funds.

#### ALTERNATIVE ACTIONS CONSIDERED

The Council could consider not funding the predevelopment applications. These projects could not move forward without the work identified in the predevelopment budget.

#### CONTACT PERSONS

Amanda Montez, Community Development Project Coordinator, HHCS 510-981-5426  
Mike Uberti, Community Development Project Coordinator, HHCS, 510-981-5114

Attachments:  
1: Resolution

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

RESERVING HOUSING TRUST FUNDS FOR PREDEVELOPMENT COSTS

WHEREAS, City Council established a Housing Trust Fund Program (HTF) 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, Community Housing Development Corporation/St. Paul AME submitted a Predevelopment Loan Application request of \$1,198,960 for its proposed development of 2024 Ashby Avenue and Community Housing Development Corporation/Ephesians Church of God in Christ submitted a Predevelopment Loan Application request of \$1,056,400 for its proposed development 1708 Harmon Street; and

WHEREAS, on February 10, 2021, the Housing Advisory Commission recommended Council approve Community Housing Development Corporation/St. Paul AME's Predevelopment Loan Application request of \$1,198,960 for 2024 Ashby Avenue and recommended Council approve Community Housing Development Corporation/Ephesians Church of God In Christ Predevelopment Loan Application request of \$1,056,400 for 1708 Harmon Street.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it approves the following reservations of Housing Trust Funds for predevelopment loans:

- a) \$1,198,960 for Community Housing Development Corporation/St. Paul AME's new construction development of affordable housing at 2024 Ashby Avenue.
- b) \$1,056,400 for Community Housing Development Corporation/Ephesians Church of God in Christ (ECOGIC)'s new construction development of affordable housing at 1708 Harmon Street.

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.





Office of the City Manager

CONSENT CALENDAR  
April 20, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Lisa Warhuus, Director, Health, Housing & Community Services  
 Subject: Revenue Contract: Alameda County Behavioral Health Care Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with Alameda County Behavioral Health Care Services (ACBH) for the provision of mental health services, including Medi-Cal, Medicare, Educationally Related Mental Health Services (ERMHS), and Early Periodic Screening, Diagnosis and Treatment (EPSDT) billing and reimbursement for through June 30, 2021.

FISCAL IMPACTS OF RECOMMENDATION

The proposed revenue contract sets out the conditions under which the City receives reimbursement for mental health services provided to eligible individuals that are billed through Alameda County to the State of California, and for services funded by Alameda County directly. There is no fixed “not to exceed” amount in the contract because the amount of revenue fluctuates each year based on the amount of billable services provided. ACBH will charge the City of Berkeley a flat fee of \$100,000 annually for administrative services provided as part of the agreement. Revenues will be deposited into the Health (Short Doyle) fund.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley has had a contract with Alameda County for the provision of mental health services since July 1, 2011. Due to changes that have occurred since the adoption of this 2011 contract, Alameda County and the City of Berkeley jointly agreed to create a new contract between these two entities. This contract clarifies the relationship between these two parties.

BACKGROUND

This contract will replace the previous contract that is in place between COB and ACBH. Resolution No. 65,438-N.S., passed by the Berkeley City Council on September 11, 2011, authorized a contract between the City of Berkeley and Alameda County that has been in place since July 1, 2011. The 2011 contract was put into place after findings by the State Department of Mental Health in its audit of both the City and County Mental Health programs, and after an audit recommendation by the City Auditor in 2008.

The City of Berkeley and Alameda County agreed to develop a new contract due to changes that have occurred since the adoption of the 2011 contract. The changes include the dissolution of the State Department of Mental Health (which is referenced in the 2011 contract), the assumption of oversight responsibilities for mental health services by the Department of Health Care Services, and communications from the Department of Health Care Services to both the City of Berkeley and Alameda County about the responsibilities of both entities. This proposed contract better reflects the roles and obligations of both parties.

#### ENVIRONMENTAL SUSTAINABILITY

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

#### RATIONALE FOR RECOMMENDATION

There is mutual interest by both the City and County in execution of this contract. It ensures that the City's mental health programs will follow applicable State and Federal regulations and requires the County to provide the City with timely billing and reimbursement.

#### ALTERNATIVE ACTIONS CONSIDERED

Due to changes since 2011, there is a need for a new contract that better represents the roles and responsibilities of Alameda County and City of Berkeley. For this reason, no other action was considered.

#### CONTACT PERSON

Steven Grolnic-McClurg, Manager of Mental Health, (510) 981-5249  
Conor Murphy, Assistant Management Analyst, HHCS, (510) 981-7611

#### Attachments:

1: Resolution

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

REVENUE CONTRACT: ALAMEDA COUNTY FOR MENTAL HEALTH SERVICES

WHEREAS, Alameda County and the City of Berkeley jointly agreed to create a new contract to clarify the relationship between these two parties. This revenue contract will facilitate the receipt of funding for the mental health services provided by the City's Mental Health Division, including Medi-Cal, Medicare, Educationally Related Mental Health Services (ERMHS), and Early Periodic Screening, Diagnosis and Treatment (ESPDT) billing and reimbursement; and

WHEREAS, there is mutual interest by the City and County in execution of this contract. The agreement ensures that the City's mental health programs will follow applicable regulations and requires the County to provide the City with timely billing and reimbursement; and

WHEREAS, the City utilizes the revenue received to fund a wide variety of mental health programs for residents of Berkeley. ACBH will charge the City of Berkeley a flat fee of \$100,000 annually for administrative services provided as part of the agreement. The revenue received will be deposited into Health (Short/Doyle) fund.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to execute a contract and any amendments with Alameda County Behavioral Health Care Services (ACBH) for mental health services through June 30, 2021. A record signature copy of said contract and any amendments to be on file in the City Clerk Department.







Office of the City Manager

CONSENT CALENDAR  
April 20, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Lisa Warhuus, Director, Health, Housing & Community Services  
 Subject: Shelter Plus Care Program Renewal Grants

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to receive funds and execute any agreements and amendments resulting from the renewal of the following grants:

1. Two Shelter Plus Care grants from the U.S. Department of Housing and Urban Development (HUD): a) \$4,124,485 for the Supportive Housing Collaborative for the period June 1, 2021 through May 31, 2022; b) \$2,411,026 for the COACH Project grant for the period of January 1, 2022 through December 31, 2022.
2. One grant from the County of Alameda for \$881,046 to provide tenant-based rental assistance to individuals whom are chronically homeless and disabled. Some assistance may be further extended to individuals' families as a part of the supported household on an individual case by case basis for the period of March 1, 2021 through February 28, 2022.

FISCAL IMPACTS OF RECOMMENDATION

Adopting this recommendation will add a total of \$7,416,557 in funding to the Housing & Community Services Division budget. The total award amount represents a 12% increase in funding from FY2020. HUD allows up to 7% of each grant to be used to administer the rental subsidies to support the Health, Housing and Community Service Department's grant-related administrative activities. The two HUD grants will have the revenues deposited and be expensed from the Shelter Plus Care Fund. The grant from Alameda County will have the revenues deposited and be expensed from the Shelter Plus Care County Fund.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley submits applications each year to the Alameda County Continuum of Care to renew funding for the Shelter Plus Care grants. This application is combined with others throughout Alameda County and submitted to HUD. Awards for projects are prioritized and ranked based on performance; the City's Shelter Plus Care program has performed well over the past decades and is renewed each year by HUD.

These Shelter Plus Care grants provide funds for rental subsidies and their administration from the federal Department of Housing and Urban Development (HUD).

Previously the City received four HUD Shelter Plus Care grants. During the last grant cycle, HUD approved consolidation of three City of Berkeley grants: 1) Tenant-Based Rental Assistance; 2) Supportive Housing Network and 3) Pathways Project. These three grants were combined into one grant, which is now the Supportive Housing Collaborative. The grants serve homeless and disabled individuals and families in Berkeley, and must be renewed on an annual basis. The grants fund rental subsidies to house 277 unhoused people with services from city staff and partnering community agencies. These services fulfill the 25% service match required by HUD. In addition, starting in January of 2020 the COACH grant includes funding for supportive services provided by the Social Services Unit of the City's Aging Services Division. These services are provided to chronically homeless adults served through the COACH grant regardless of their age.

Each of the participants in the program receives case management and other supportive services provided by one or more of the following agencies: Bay Area Community Services, Berkeley Food and Housing Project; City of Berkeley Mental Health Division; City of Berkeley Aging Services Division; Bonita House, Inc.; Building Opportunities for Self-Sufficiency; East Bay AIDS Center; Lifelong Medical Care; and the Women's Daytime Drop-In Center.

### BACKGROUND

Since 1995, the City of Berkeley Shelter Plus Care Program has been an important component of the continuum of housing available to unhoused people with disabilities. The Shelter Plus Care Program is funded by HUD and the County of Alameda to provide housing subsidies for people who are homeless with a disability. The program combines a rental subsidy with ongoing supportive services to assist chronically homeless individuals and families to obtain and maintain housing.

The Berkeley Shelter Plus Care Program is a partnership between the Health, Housing & Community Service Department and seven community agencies. The Health, Housing & Community Service Department provides operational and programmatic oversight, and inspects rental units to ensure that each unit meets federal housing quality standards, and then makes monthly rental subsidy payments to property owners. The community agencies along with the Department's Divisions on Aging Services and Mental Health provide ongoing case management and support to participants in the program. The City of Berkeley Shelter Plus Care grants provide 277 units of supportive housing for homeless and disabled people.

### ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

The City of Berkeley Shelter Plus Care Program successfully provides stable housing and ongoing services to our most chronically homeless and underserved residents. Authorizing the acceptance of the five Shelter Plus Care renewal grants will assure that 277 homeless and disabled individuals and families in Berkeley continue to benefit from receiving ongoing rental assistance and the supportive services necessary to retain stable housing.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Jose Rios, Community Services Specialist II, HHCS, (510) 981-5407

Attachment:

1: Resolution

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

SHELTER PLUS CARE PROGRAM RENEWAL GRANTS

WHEREAS, the U.S. Department of Housing and Urban Development and the County of Alameda have awarded the City of Berkeley Health, Housing & Community Services Department the following three Shelter Plus Care grants: 1) \$4,124,485 for the Supportive Housing Collaborative for the period June 1, 2021 through May 31, 2022; 2) \$2,411,026 in tenant-based rental assistance for the COACH Project for the period of January 1, 2022 through December 31, 2022; and 3) \$881,046 provided through a contract with Alameda County to provide tenant-based rental assistance to homeless individuals and families for the period of March 1, 2021 through February 28, 2022; and

WHEREAS, the combined total for the three grants is an estimated \$7,416,557 to provide direct rental assistance, and of this amount approximately 7% is available to support the Health, Housing and Community Service Department's grant-related administrative activities.; The two HUD grants will have the revenues deposited and be expensed from the Shelter Plus Care Fund. The grant from Alameda County will have the revenues deposited and be expensed from the Shelter Plus Care County Fund; and

WHEREAS, the Shelter Plus Care grants are an annual renewal of an existing program that provides rental subsidies and ongoing support services for more than 277 homeless and disabled individuals and families in Berkeley; and

WHEREAS, the rental subsidies provided through the City's Shelter Plus Care Program are matched by services provided by the City's Mental Health Division and Aging Services Division and seven community-based agencies that assist formerly homeless, disabled individuals and families to retain stable housing.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to receive funds and execute any agreements and amendments resulting from the three grants awarded from the U.S. Department of Housing and Urban Development and the County of Alameda for the City's Shelter Plus Care Program as follows: 1) \$4,124,485 for the Supportive Housing Collaborative, for the period of June 1, 2021 through May 31, 2022; 2) \$2,411,026 in tenant-based rental assistance for the COACH Project grant for the period of January 1, 2022 through December 31, 2022; and 3) \$881,046 provided through a contract with Alameda County to provide tenant-based rental assistance to individuals whom are chronically homeless and disabled. Some assistance may be further extended to individuals' families as a part of the supported household on an individual case by case basis from March 1, 2021 through February 28, 2022. A signed copy of said documents, agreements and any amendments will be kept on file in the Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR  
April 20, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront  
 Subject: Contract No. 32000082 Amendment: Mar Con Builders, Inc. for Live Oak Community Center Seismic Upgrade Project

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000082 with Mar Con Builders, Inc. for the Live Oak Community Center Seismic Upgrade Project, increasing the contract amount by \$160,562 for a total amount not to exceed of \$6,066,230.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this contract amendment is available in the FY 2021 Parks Tax Fund budget for FY 2021 (138-52-545-000-0000-000-461-662110-PRWT119005). No other funding is required, and no other projects will be delayed due to this expenditure.

CURRENT SITUATION AND ITS EFFECTS

The existing community center at Live Oak Park is in need of renovation and is one of the City's identified care and shelter facilities. The scope for the existing contract with Mar Con Builder's Inc. includes seismic upgrades to the foundations, roofing, and wall systems, upgrades to current building codes, ADA accessibility improvements, and various energy upgrades and building improvements.

The contract at the time of bid did not incorporate the additive alternates for the renovation of the kitchen, installation of the fireside room divider, or the social hall floor refinishing due to funding constraints. These improvements were added onto the project scope in order to maintain consistency with the City's Climate Action Plan and Resiliency Plan, and provide a more completely renovated building giving a more flexible programmatic approach to the implementation of recreation programs in the future.

The contract at time of bid also did not include exterior site improvements outside of the originally planned code-related improvements. During construction, staff explored exterior site improvements to enhance the site, fix deferred maintenance items, and remove old infrastructure to prevent future recurring maintenance issues.

Following these additions, staff has continued to address unforeseen conditions such as termite damage, utility coordination with EBMUD, PGE, and ATT, and explore additional value-add and finishing items.

City staff determined that the additive alternate work does not negatively impact the project schedule and that the pricing has been continuously negotiated to be within reasonable amounts. Because the building remains closed for programming due to COVID response, it was advantageous to use the continued closure of the facility to perform additional work. It was also determined that the City can utilize the current contractor currently mobilized at the site to reduce overhead, mobilization fees, downtime and future site closures, and administrative costs to complete this work. Staff has been able to identify funding within Parks Tax to be used for this work.

### BACKGROUND

On September 24, 2019, Council adopted Resolution No. 69,112-N.S., authorizing the City Manager to execute a contract and any amendments with Mar Con Builders Inc. for the seismic upgrade of the Live Oak Community Center. The total contract was for \$5,415,927, which included a contingency in the amount of \$492,357.

On December 10, 2019, Council adopted Resolution No. 69,219-N.S., authorizing the City Manager to execute an amendment to the contract with Mar Con Builders, Inc. for the Kitchen Additive Alternate which included a switch from natural gas to electrification, and various energy and building code upgrades. The contract amendment was for \$289,741 for a total amended amount not to exceed \$5,705,668.

On September 15, 2020, Council adopted Resolution No. 69,554-N.S., authorizing the City Manager to execute an amendment to the contract with Mar Con Builders, Inc. for the exterior site improvements to fix deferred maintenance and repair or replace old infrastructure. The contract amendment was for \$200,000 for a total amended amount not to exceed \$5,905,668.

The originally planned renovations at Live Oak Community Center incorporated upgrades needed for code compliance and also as many energy efficiency upgrades as possible. The improvements to the kitchen, fireside room, and social hall floor were additive alternates to maintain consistency with the City's Climate Action Plan and Resiliency Plan and add flexibility recreational programming. The exterior improvements and other related improvements are to provide a more complete and enhanced project.

### ENVIRONMENTAL SUSTAINABILITY

The construction contract includes requirements to comply with the City's Environmentally Preferable Purchasing Policy. The project is a renovation of a developed urban site and therefore will not negatively affect natural habitat.

### RATIONALE FOR RECOMMENDATION

These final improvements provide the most complete and upgraded finished project that the City can achieve at this time with available funding. These additions help mitigate future construction activity impacts to PR&W programming and efficiency under

combination with the current construction contract. The City does not have the in-house labor or equipment resources to complete this renovation project.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Scott Ferris, Director, Parks Recreation & Waterfront (PRW), 981-6700

Evelyn Chan, Supervising Civil Engineering, PRW, 981-6430

Isaac Carnegie, Associate Civil Engineer, PRW, 981-6432

Attachments:

1: Resolution

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

CONTRACT NO. 32000082 AMENDMENT: MAR CON BUILDERS, INC., FOR LIVE OAK COMMUNITY CENTER SEISMIC UPGRADE

WHEREAS, the community center at Live Oak Park is in need of renovation; and

WHEREAS, the City has neither the labor nor the equipment necessary to undertake this project; and

WHEREAS, an invitation for bids was duly advertised on July 22, 2019, bids were opened on August 29, 2019, and the City received eight bids; and

WHEREAS, Mar Con Builders, Inc. was determined to be the lowest responsive and responsible bidder, and references for Mar Con Builders, Inc. were provided and checked out satisfactorily; and Mar Con Builders, Inc. was awarded Contract No. 32000082; and

WHEREAS, on December 10, 2019, Council adopted Resolution No. 69,219-N.S. authorizing the City Manager to execute an amendment to the contract with Mar Con Builders, Inc. for the Kitchen Additive Alternate which included a switch from natural gas to electrification, and various energy and building code upgrades. The contract amendment was for \$289,741 for a total amended amount not to exceed \$5,705,668; and

WHEREAS, on September 15, 2020, Council adopted Resolution No. 69,554-N.S. authorizing the City Manager to execute an amendment to the contract with Mar Con Builders, Inc. for the exterior site improvements. The contract amendment was for \$200,000 for a total amended amount not to exceed \$5,905,668; and

WHEREAS, an increase of \$160,562 to the not-to-exceed contract amount is necessary for final improvements to provide the most complete and upgraded finished project that the City can achieve at this time with available funding for Live Oak Community Center; and

WHEREAS, funding for this contract amendment is available in the FY 2021 Parks Tax Fund budget for FY 2021 (138-52-545-000-0000-000-461-662110-PRWT119005).

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. 32000082 with Mar Con Builders Inc. for the Live Oak Community Center Seismic Upgrade project, increasing the amount by \$160,562, for a total amended amount not to exceed \$6,066,230. A record signature copy of any amendments to be on file in the Office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
April 20, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront

Subject: Contract No. 32000274 Amendment: Suarez and Munoz Construction, Inc. for San Pablo Park Playground and Tennis Court Renovation Project

RECOMMENDATION

Adopt a resolution authorizing the City Manager to execute an amendment to Contract No. 32000274 with Suarez and Munoz Construction, Inc. for the San Pablo Park Playground and Tennis Court Renovation Project, increasing the amount by \$125,000 for an amended total amount not to exceed \$2,094,056.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this contract amendment is available in the FY 2021 budget in the Parks Tax Fund. No other funding is required, and no other projects will be delayed due to this expenditure.

CURRENT SITUATION AND ITS EFFECTS

The contract with Suarez and Munoz Construction, Inc. for the San Pablo Park Playground and Tennis Court Renovation Project, was approved on May 12, 2020 for a total amount not to exceed \$1,969,056. During construction, unforeseen existing conditions required that additional work be performed. Additionally, the City's parks maintenance staff identified additional deferred maintenance repairs and necessary replacements. The City has negotiated these change orders with Suarez and Munoz Construction, Inc. This work was not included in the original contract scope, but is necessary to maintain accessibility and safe conditions at the City's parks, and improves the finish of the completed project.

BACKGROUND

The project includes removal and disposal of the 2-5 and 5-12 playgrounds and the installation of two new play areas in the existing locations. In addition to new play structures, accessible surfacing will be installed throughout both play areas to enhance the safety and access for park users. The project also includes resurfacing of the tennis courts, renovating the existing chain link fence including replacement of the fence fabric for the tennis courts, installing site furnishings including net assembly, bleachers, benches, drinking fountains, and bleachers, and related site work to improve pedestrian

and ADA access in conformance with current ADA standards. These park improvements are part of the City's ongoing program to repair, renovate, and improve safety and accessibility at non-compliant or aging Parks facilities.

The project was advertised for bids on March 20, 2020, and bids were opened on April 16, 2020. The City received 4 bids, from a low base bid of \$1,729,351 to a high base bid of \$2,437,785. Suarez & Munoz Construction, Inc. ("SMC") was the lowest responsive and responsible bidder. Staff conducted references checks and received satisfactory feedback.

ENVIRONMENTAL SUSTAINABILITY

The construction contract includes requirements to comply with the City's Environmentally Preferable Purchasing Policy. The project is a renovation of a developed urban site and therefore will not negatively affect natural habitat.

RATIONALE FOR RECOMMENDATION

This increase to the current contract is necessary to perform additional deferred maintenance repairs, safety enhancements, and to complete current change orders. The City does not have the in-house labor or equipment resources to complete these construction activities.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Scott Ferris, Director, Parks Recreation & Waterfront, (510) 981-6700  
Evelyn Chan, Supervising Civil Engineer, PRW, (510) 981-6430  
Wendy Wellbrock, Associate Civil Engineer, PRW, (510) 981-6346

Attachments:

1: Resolution

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

CONTRACT NO. 32000274 AMENDMENT: SUAREZ AND MUNOZ CONSTRUCTION,  
INC. FOR THE SAN PABLO PARK PLAYGROUND AND TENNIS COURT  
RENOVATION PROJECT

WHEREAS, San Pablo Park, Playgrounds and Tennis Courts are in need of renovation;  
and

WHEREAS, the City has neither the labor nor the equipment necessary to undertake this  
construction work; and

WHEREAS, an invitation for bids was duly advertised on March 20, 2020, and bids were  
opened on April 16, 2020, and the City received 4 bids;

WHEREAS, Suarez & Munoz Construction, Inc. was the lowest responsive and  
responsible bidder, and references for Suarez & Munoz Construction, Inc. were provided  
and checked out satisfactorily; and

WHEREAS, on May 12, 2020, by Resolution No. 69,390-N.S., the City Council authorized  
Contract No. 32000274 with Suarez and Munoz Construction, Inc. in an amount not to  
exceed \$1,969,056 for the San Pablo Park Playground and Tennis Court Renovation  
Project; and

WHEREAS, an increase of \$125,000 to the not-to-exceed contract amount is necessary  
to make deferred maintenance repairs and complete change orders; and

WHEREAS, funds are available in the FY 2021 budget in the Parks Tax Fund (Fund 138).

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. 32000274 with  
Suarez and Munoz Construction, Inc. for the San Pablo Park Playground and Tennis  
Court Renovation Project, increasing the contract amount by \$125,000, for a total  
amended amount not to exceed \$2,094,056. A record signature copy of any amendments  
to be on file in the Office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
April 20, 2021

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront  
Subject: Contract: ERA Construction Inc. for King School Park Play Area Renovation Project

RECOMMENDATION

Adopt a Resolution:

1. Approving the plans and specifications for the King School Park Play Area Renovation Project, Specification No. 21-11435-C;
2. Rejecting the lowest bid from Kompan California Inc. as non-responsive;
3. Accepting the bid of the lowest responsive and responsible bidder, ERA Construction Inc.; and
4. 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 ERA Construction Inc. for the King School Park Play Area Renovation Project at 1700 Hopkins Street, Berkeley, CA 94702, in an amount not to exceed \$650,438, which includes a contract amount of \$542,032 and a 20% contingency in the amount of \$108,406.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available in the Parks Tax Fund, and will be included in the Second Amendment to the FY 2021 Annual Appropriations Ordinance. No other funding is required, and no other projects will be delayed due to this expenditure.

ERA Construction Inc. (lowest bid).....	\$542,032
20% Contingency	\$108,406
<hr/>	
Total construction cost	\$650,438
Parks Tax Fund.....	\$650,438
(138-52-545-000-0000-000-461-663110-PRWPK19003)	
<hr/>	
Total funding	\$650,438

CURRENT SITUATION AND ITS EFFECTS

The existing playground at King School Park at 1700 Hopkins Street, Berkeley, CA 94702 are in need of repair and renovations. During a winter event in February 2019, a large eucalyptus tree fell, damaging the play equipment and site. This project includes the replacement and renovation of the damaged 2-5 playground area, installation of a

new climbing structure for age group 5-12 where the tree once stood, and improvements to other site features and amenities in conformance with current ADA standards.

### BACKGROUND

The project was advertised for bids on Wednesday, February 17, 2021, and bids were opened on March 4, 2021. The City received eight bids, from a low base bid of \$532,667 to a high base bid of \$804,208.

On March 8, 2021, the City received a bid protest from the apparent second lowest bidder, ERA Construction Inc. ("ERA"), alleging four issues from the apparent low bidder, Kompan California Inc. ("KCI"). A copy of the bid protest was sent to KCI to provide them an opportunity to respond to the protest issues. KCI's response was then forwarded to ERA for their opportunity to respond to ensure that all parties had an opportunity to present all facts and arguments in support of their positions. City staff, including staff from the City Attorney's office, carefully reviewed and investigated the bids, protest and responses. Upon review of the documents, and independent research, the City found that KCI does not meet the minimum bidder qualifications per Document 00 4513 Statement of Qualifications. Per Document 00 4513, bidders must have three (3) years experience as a continuously operating entity engaged in the performance of similar work. Though "Kompan Inc." is a worldwide company, the company "Kompan California Inc." is a separate California entity, and was issued a Class A General Engineering Contractor License on December 24, 2020 by the California Department of Consumer Affairs Contractors State License Board. Kompan California Inc. does not meet the City's minimum qualifications to bid the project. Subsequently, City staff concluded that KCI's bid should be deemed non-responsive.

As a result, ERA Construction Inc. became the lowest responsive and responsible bidder. References for ERA Construction Inc. were provided and checked out satisfactorily. Staff recommends that a contract for this project be awarded to ERA Construction Inc.

The Living Wage Ordinance does not apply to this project since construction contracts are, pursuant to City policy, subject to State prevailing wage laws. The contractor will need to submit a Certification of Compliance for the Equal Benefits Ordinance. The contract will be subject to the Community Workforce Agreement.

### ENVIRONMENTAL SUSTAINABILITY

The construction contract includes requirements to comply with the City's Environmentally Preferable Purchasing Policy. The project is a renovation of a developed urban site and therefore will not negatively affect natural habitat.

### RATIONALE FOR RECOMMENDATION

The renovation of the existing age 2-5 play structures is needed to replace the damaged playground which has remained unusable since the tree fell in February 2019. The work will also renovate the site to comply with current accessibility and building codes. The

Contract: ERA Construction Inc. for  
King School Park Play Area Renovation Project

CONSENT CALENDAR  
April 20, 2021

City does not have in-house labor or equipment resources to complete this renovation project.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Scott Ferris, Director, Parks Recreation & Waterfront, 981-6700

Evelyn Chan, Supervising Civil Engineer, Parks Recreation & Waterfront, 981-6430

Attachments:

1: Resolution

2: Bid Results

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

CONTRACT: ERA CONSTRUCTION INC. FOR THE KING SCHOOL PARK PLAY  
AREA RENOVATION PROJECT

WHEREAS, the playground at King School Park is in need of renovation; and

WHEREAS, the City has neither the in-house labor nor the equipment necessary to undertake this project; and

WHEREAS, an invitation for bids was duly advertised on February 17, 2021, bids were opened on May 4, 2021, and the City received eight bids; and

WHEREAS, upon receipt of a bid protest, review of the submitted bids, and careful consideration, the bid from the apparent low bidder, Kompan California Inc., was deemed non-responsive; and

WHEREAS, ERA Construction Inc. was determined to be the lowest responsive and responsible bidder, and references for ERA Construction Inc. were provided and checked out satisfactorily; and

WHEREAS, funding is available in the Parks Tax Fund (Fund 138).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Plans and Specifications for Specification No. 21-11435-C for the King School Park Play Area Renovation Project are approved.

BE IT FURTHER RESOLVED that the bid from Kompan California Inc. is deemed non-responsive and is rejected; and that the construction contract is awarded to ERA Construction Inc. as the lowest responsive and responsible bidder for a total contract amount of \$650,438.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments, extensions, or change orders until completion of the project in accordance with the approved plans and specifications with ERA Construction Inc. for the King School Park Play Area Renovation Project in an amount not to exceed \$650,438, which includes a contract amount of \$542,032 and a 20% contingency in the amount of \$108,406 for unforeseen circumstances. A record signature copy of the agreement and any amendments to be on file in the Office of the City Clerk.





Attachment 2 - Bid results

City of Berkeley  
Abstract of Bid Worksheet

Finance Department  
General Services Division

Bid Date: 3/4/2021

FOR: King School Park and Playground

required w/ bid

	Bidders	Base Bid	Bid Bond	Addendum	Reg./Exp.	Subs	Non-Coll.	Certs
1	Cazadero Construction	\$ 655,400	✓	✓	✓	✓	✓	✓
2	Kerex Engineering	\$ 738,000	✓	✓	✓	✓	✓	✓
3	STAR CONSTRUCTION	\$ 627,270	✓	✓	✓	✓	✓	✓
4	BAY Construction Co.	\$ 698,000	✓	✓	✓	✓	✓	✓
5	ERA Construction	\$ 542,031. <sup>73</sup>	✓	✓	✓	✓	✓	✓
6	Angotti & REILLY, Inc.	\$ 804,208. <sup>00</sup>	✓	✓	✓	✓	✓	✓
7	HM Construction, Inc.	\$ 557,000	✓	✓	✓	✓	✓	✓
8	KOMPAN	\$ 532,667	✓	✓	✓	✓	✓	✓
9								
10								

Bid Recorder: DARRYL SWEET  3-4-2021

Bid Opener: Roop Soormu  3-4-2021

Project Manager: Isaac Carnejo  
3/4/21  
2180 Milvia Street, Berkeley, CA 94704 Tel: 510.981.7320 TDD: 510.981.6903 Fax: 510.981.7390  
E-mail: finance@ci.berkeley.ca.us





Office of the City Manager

CONSENT CALENDAR  
April 20, 2021

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront  
Subject: Contract: O.C. Jones & Sons, Inc. for the Berkeley Marina Roadway Improvements Project: University Avenue (West Frontage Road to Marina Boulevard), Marina Boulevard, and Spinnaker Way Project

RECOMMENDATION

Adopt a Resolution:

1. Approving the plans and specifications for the Berkeley Marina Roadway Improvements Project: University Avenue (West Frontage Road to Marina Boulevard), Marina Boulevard, and Spinnaker Way Project (Bid Specification No. 20-11388-C);
2. Accepting the bid of O.C. Jones & Sons, Inc. as the lowest responsive and responsible bidder on the Project; 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 O.C. Jones & Sons, Inc., for the Berkeley Marina Roadway Improvements Project: University Avenue (West Frontage Road to Marina Boulevard), Marina Boulevard, and Spinnaker Way Project, in an amount not to exceed \$6,175,185.82, which includes a contract amount of \$5,369,726.80 and a 15% contingency in the amount of \$805,459.02.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available in the FY 2021 budget in the CIP Fund (Fund 501), Measure B LSR (Fund 130), Measure BB (Fund 134), Measure SB1 (Fund 127), Measure T1 Fund (Fund 511), and from the 200 Marina Blvd, LLC Capital Contribution Agreement (via Marina Fund 608). No other funding is required, and no other projects will be delayed due to this expenditure.

O.C. Jones & Sons, Inc. (lowest bid).....	\$5,369,726.80
15% Contingency	\$805,459.02
<hr/>	
Total construction cost	\$6,175,185.82

Contract: O.C. Jones & Sons, Inc. for the  
Berkeley Marina Roadway Improvements Project

CONSENT CALENDAR  
April 20, 2021

CIP 501 (501-52-545-000-0000-000-461-665110-PRWT119006) .....	\$42,313
MB LSR (130-52-545-000-0000-000-461-665110-PRWT119006) .....	\$397,349
BB LSR (134-52-545-000-0000-000-461-665110-PRWT119006).....	\$927,934
SB1 (127-52-545-000-0000-000-461-665110-PRWT119006) .....	\$1,000,000
Measure T1 Fund (511-52-545-000-0000-000-461-665110- PRWT119006) .....	\$1,272,378
200 Marina Blvd, LLC (608-52-545-000-0000-000-461-665110-PRWT119006) .....	<u>\$2,535,211.82</u>
Total construction cost.....	\$6,175,185.82

**CURRENT SITUATION AND ITS EFFECTS**

On February 1, 2021, the Berkeley Marina Roadway Improvements Project: University Avenue (West Frontage Road to Marina Boulevard), Marina Boulevard, and Spinnaker Way Project was advertised for competitive bids. On March 11, 2021, ten (10) bids were received (See Attachment 2: Bid Abstract Summary). Staff reviewed the bid results and the Contractor’s references, and has determined that the bid from O.C. Jones & Sons, Inc. is the lowest responsive and responsible bidder.

The Living Wage Ordinance does not apply to this project since Public Works construction contracts are, pursuant to City policy, subject to State prevailing wage laws. Contractor has submitted a Certification of Compliance with the Equal Benefits Ordinance. The Community Workforce Agreement applies to this project because the estimated value of the project exceeds \$500,000. As a result, the successful bidder and all subcontractors will be required to sign an agreement to be bound by the terms of the Agreement.

Construction is expected to begin in June, 2021 and be completed by December, 2021.

**BACKGROUND**

The Berkeley Marina is one of the largest marinas in the East Bay. It is a highly valued community resource offering recreational opportunities and open space amenities for both local residents and visitors throughout the Bay Area. It contains a range of facilities: a hotel, restaurants, marina-related offices, 1,000 boat slips, the historic Berkeley Municipal Pier, and the trails and open space at Cesar Chavez Park and McLaughlin Eastshore State Park. Plans are currently underway to bring back a ferry service, as well as a new portion of Eastshore State Park called the Brickyard.

The purpose of this project is to perform the much-needed pavement rehabilitation, public access improvements, and green infrastructure where appropriate to three major roadways at the Berkeley Marina: University Avenue from West Frontage Road to Marina Boulevard, Spinnaker Way, and Marina Boulevard. This project encompasses the following components:

**University Avenue Lane Reconfiguration**

The only road accessing the Berkeley Marina is University Avenue from the West Frontage Road intersection. This segment of University Avenue has the worst pavement condition of all roadways at the Marina.

The undulating pavement on eastbound University Avenue has been an ongoing concern for decades. Previous pavement repairs only provided temporary alleviation of the condition. The undulating pavement presents a significant unpleasant condition for users exiting the Berkeley Marina. The westbound pavement is also in poor condition and in need of rehabilitation.

In addition, the current traffic operations and geometric configuration at the intersections of University Avenue and Marina Boulevard are problematic for pedestrians and bicyclists and in need of improvement.

The work on University Avenue as part of this project features the following elements:

1. A modern roundabout at the intersection of Marina Boulevard and University Avenue to create a gateway to the Berkeley Marina, enhance pedestrian and bicyclist safety at crosswalks, and improve traffic safety with better levels of service.
2. Creation of a contiguous green space on the southside of the new roadway at the Bay Trail by relocating the eastbound lanes to the north onto the existing medians.
3. Allocate space and utilities for the future Marina entrance kiosk.

### Spinnaker Way Pavement Rehabilitation and Drainage Improvements

Spinnaker Way is the main roadway for users to access Cesar Chavez Park, a site for summer-specific events such as the Kite Festival, the Launch Ramp Parking Lot popular with fishing boat trailers during fishing season, the Marine Center (boat repair), and general waterfront recreation uses.

This roadway has significant deterioration and settlement that causes rainwater to pond for extended periods. It also lacks proper crosswalk connection between Cesar Chavez Park and the amenities at the Launch Ramp Parking Lot.

The work on Spinnaker Way as part of this project features the following elements:

1. Stormwater improvements by converting the existing traffic circle at the western terminus of the roadway into a stormwater bio-retention area. The parking lanes will receive porous pavers for stormwater infiltration and reduction of asphalt paving.
2. Create a proper crosswalk to connect Cesar Chavez Park to the Launch Ramp parking lot and restroom amenities.
3. Allocate space and the sewer lateral for the upcoming permanent restroom building to serve Cesar Chavez Park.

### Marina Boulevard Pavement Rehabilitation

Marina Boulevard will be resurfaced to extend the service life of the roadway and enhance user access at the Marina.

### ENVIRONMENTAL SUSTAINABILITY

The construction contract includes requirements to comply with the City's Environmentally Preferable Purchasing Policy. The work will also comply with the conditions contained in the Bay Conservation Development Commission (BCDC) Permit, as well as the conditions contained in a Caltrans Encroachment Permit.

This project is a maintenance project of an existing infrastructure and therefore will not negatively affect natural habitat. The City, acting as the CEQA lead agency, reviewed the Project's potential environmental impacts and determined that the Project was eligible for a Categorical Exemption pursuant to CEQA Guidelines Section 15301 (Existing Facilities), and Section 15302 (Replacement or Reconstruction) because the Project consists of the maintenance of existing public structures/facilities, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. On February 1, 2021, the City filed a Notice of Exemption (NOE) for the Project with the Alameda County Clerk.

### RATIONALE FOR RECOMMENDATION

This street repair project is part of the City's ongoing annual program to rehabilitate deteriorated streets throughout the City.

### ALTERNATIVE ACTIONS CONSIDERED

None

### CONTACT PERSON

Scott Ferris, Director, Parks Recreation & Waterfront, 981-6700  
Nelson Lam, Supervising Civil Engineer, PRW, 981-6395

### Attachments:

- 1: Resolution
- 2: Bid Abstract Summary

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

CONTRACT: O.C. JONES & SONS, INC. FOR THE BERKELEY MARINA ROADWAY IMPROVEMENTS PROJECT: UNIVERSITY AVENUE (WEST FRONTAGE ROAD TO MARINA BOULEVARD), MARINA BOULEVARD, AND SPINNAKER WAY PROJECT

WHEREAS, University Avenue between West Frontage Road and Marina Boulevard, Spinnaker Way, and Marina Boulevard at the Berkeley Marina are in need of rehabilitation; and

WHEREAS, the City has neither the labor nor the equipment necessary to undertake this project; and

WHEREAS, an invitation for bids was duly advertised on February 1, 2021, bids were opened on March 11, 2021, and the City received 10 bids; and

WHEREAS, the bid from O.C. Jones & Sons, Inc. was the lowest responsive, responsible bid of \$5,369,726.80, and references for O.C. Jones & Sons, Inc. were provided and checked out satisfactorily; and

WHEREAS, funding is available in the FY 2021 budget from the CIP Fund (Fund 501), Measure B LSR (Fund 134), Measure BB (Fund 130), Measure SB1 (Fund 127), Measure T1 Fund (Fund 511), and 200 Marina Blvd, LLC Capital Contribution Agreement (via Marina Fund 608).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Plans and Specification No. 20-11388-C for the Berkeley Marina Roadway Improvements project are approved.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments, extensions, or change orders until completion of the project in accordance with the approved plans and specifications with O.C Jones & Sons, Inc. for the Berkeley Marina Roadway Improvements Project in an amount not to exceed \$6,175,185.82, which includes a contract amount of \$5,369,726.80 and a 15% contingency in the amount of \$805,459.02 for unforeseen circumstances. A record signature copy of the agreement and any amendments to be on file in the Office of the City Clerk.

### Attachment 2 - Bid Abstract



City of Berkeley  
Abstract of Bid Worksheet

Finance Department  
General Services Division

FOR: Berkeley Marina Roadway Imp. Project

Spec. #  
20-11388-C

Bid Date:

3/11/2021

required w/ bid											
	Bidders	Base Bid	Alt. #1	Bid Bond	Addenda	Exp & Fin.	Tax ID	OS	NF	EBO	SC
✓ 1	TEAM GHILLOTTI	5,627,141.00	483,943.92	✓	✓	✓	✓	✓	✓	✓	✓
2	TEIKERT CONST.	6,392,334.20	485,553.00	✓	✓	✓	✓	✓	✓	✓	✓
✓ 3	GHILLOTTI CONSTRUCTION	5,744,434.85	410,216.40	✓	✓	✓	✓	✓	✓	✓	✓
4	INTERSTATE GRADING & PAVING	6,116,418.50	327,337.50	✓	✓	✓	✓	✓	✓	✓	✓
5	GRANITE ROCK	6,035,280.90	356,131.90	✓	✓	✓	✓	✓	✓	✓	✓
✓ 6	BAY CITIES PAVING & GRADING	5,131,510.62	403,409.55	✓	✓	✓	✓	✓	✓	✓	✓
7	MCGUIRE/ATESTOR	7,307,887.30	359,411.55	✓	✓	✓	✓	✓	✓	✓	✓
8	GALLAGHER & BURK	6,217,318.40	377,831.00	✓	✓	✓	✓	✓	✓	✓	✓
✓ 9	REDGWICK CONSTRUCTION	5,917,465.60	416,473.50	✓	✓	✓	✓	✓	✓	✓	✓
✓ 10	O.C. JONES & SONS	4,977,567.75	392,181.05	✓	✓	✓	✓	✓	✓	✓	✓

Bid Recorder: JOSEPH ROSEN 3/11/2021  
 Bid Opener: DARRYL SWEET 3/11/2021  
 Project Manager: JESU ESPINOZA   
 2180 Milvia Street, Berkeley, CA 94704 Tel: 510.981.7320 TDD: 510.981.6903 Fax: 510.981.7390  
 E-mail: finance@ci.berkeley.ca.us





Office of the City Manager

CONSENT CALENDER  
April 20, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront  
 Subject: Grant Application: California Proposition 68 Statewide Parks Program for new park development at selected Santa Fe Right-of-Way parcels

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to: 1. Submit a grant application in the amount of up to \$8,000,000 to the California Proposition 68 Statewide Parks Program for new park development at selected Santa Fe Right-of-Way parcels; 2. Accept any grants; 3. Execute any resulting grant agreements and any amendments; and 4) Authorizing the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.

FISCAL IMPACTS OF RECOMMENDATION

The California State Parks Prop 68 Statewide Parks Program does not require local matching funds. If awarded, the City will assign City staff to manage the project as an in-kind match to the grant, at a value of approximately 10% of the grant, or up to \$800,000, over the duration of the project.

CURRENT SITUATION AND ITS EFFECTS

In July of 2020, the California Proposition 68 Statewide Parks Program announced a call for proposals, due in December of 2020. This grant program provides funding for projects that involve the creation of new parkland or the improvement of existing parks. The program is extremely competitive in that all proposals are ranked in terms of the median household income (MHI) and the shortage of parkland acreage, with the lowest measures receiving the highest scores. In addition, the grant requires an extensive community process to demonstrate how the project would help address local community challenges. The City's Parks, Recreation & Waterfront Department evaluated a number of potential parks projects and determined that the creation of new parkland at selected Santa Fe Right-of-Way parcels would be the most competitive project in Berkeley. On December 1, 2020, Council adopted Resolution No. 69,625-N.S. to authorize the submittal of this grant application; however, due to an error, the resolution did not contain certain boilerplate text that is required by the Statewide Parks Program and therefore a new resolution with the correct text must be adopted.

### BACKGROUND

In 1980, the City acquired 3.5 miles of linear right-of-way parcels from the Santa Fe Railroad. In the early 1980's, after extensive planning efforts on how to use these parcels, the City constructed two senior housing developments via the Berkeley Housing Authority, two city parks (Cedar Rose and Strawberry Creek), two community gardening projects, and there are currently six undeveloped parcels south of University Ave). Over the past several years, the City and School District have made concerted attempts to consider these parcels for potential housing and other projects, but projects have not been implemented due to several constraints (e.g., the small linear parcels are not financially feasible for typical housing construction, etc.). In addition, as the former site of the Santa Fe railroad bed, the parcels likely have some soil contamination that could need remediation before new uses could be implemented. With an upper grant limit of \$8 million, this Prop 68 grant program could potentially provide sufficient funds to remediate selected Santa Fe Right-of-Way parcels and create much-needed new parkland for the community.

### ENVIRONMENTAL SUSTAINABILITY

This project will help the City promote two goals contained in the City's Climate Action Plan: Goal 2 of Chapter 3 involves increasing access to parks and plazas; and Goal 1 of Chapter 6 involves making Berkeley resilient to the impacts of climate change by designing public improvements such as parks for retention and infiltration of stormwater.

### RATIONALE FOR RECOMMENDATION

These grant funds could potentially allow the City to create new parkland in Southwest Berkeley.

### CONTACT PERSON

Scott Ferris, Director, PRW, 981-6700

Evelyn Chan, Supervising Civil Engineer, PRW, 981-6430

Attachments:

1: Resolution

**RESOLUTION OF THE CITY OF BERKELEY APPROVING THE APPLICATION FOR STATEWIDE PARK DEVELOPMENT AND COMMUNITY REVITALIZATION PROGRAM GRANT FUNDS IN THE AMOUNT OF UP TO \$8,000,000**

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Statewide Park Development and Community Revitalization Grant Program, setting up necessary procedures governing the application; and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the Applicant to certify by resolution the approval of the application before submission of said application to the State; and

WHEREAS, successful Applicants will enter into a contract with the State of California to complete the Grant Scope project;

NOW, THEREFORE, BE IT RESOLVED that the City of Berkeley hereby:  
Approves the filing of an application for the Santa Fe Railroad Trackbed to Park Conversion Project; and

1. Certifies that said Applicant has or will have available, prior to commencement of any work on the project included in this application, the sufficient funds to complete the project; and
2. Certifies that if the project is awarded, the Applicant has or will have sufficient funds to operate and maintain the project, and
3. Certifies that the Applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Grant Administration Guide; and
4. Delegates the authority to the City Manager to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the Grant Scope; and
5. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.
6. Will consider promoting inclusion per Public Resources Code §80001(b)(8 A-G).

BE IT FURTHER RESOLVED that the Council of the City of Berkeley authorize the implementation of the project and appropriation of funding for related expenses, subject to securing the grant. A record signature copy of said agreements and any amendments to be on file in the Office of the City Clerk.





Homeless Commission

## CONSENT CALENDAR

April 20, 2021

To: Honorable Mayor and Members of the City Council

From: Homeless Commission

Submitted by: Carole Marasovic, Chairperson, Homeless Commission

Subject: Recommendation to Incorporate Hate Crimes against Persons with Homeless Status in Improving Hate Crime Reporting and Response

### RECOMMENDATION

That Council refer to the City Manager to develop a targeted approach, towards persons with homeless status, to improving hate crime reporting and response consistent with the other approaches being developed for other populations under the City of Berkeley's Improving Hate Crimes Reporting and Response legislation passed by Council on November 17, 2020.

### SUMMARY

Homeless persons are frequently the victims of hate crimes based on their homeless status. On November 17, 2020, Council passed legislation to refer to the City Manager to develop approaches to improve hate crimes reporting and response. While homeless victims may be, to some degree, covered under other populations identified, the hate crimes committed against them because of their homeless status merit being distinguished in reporting and response. Council's referral to the City Manager also covers developing community education and outreach. The homeless population needs outreach targeted to them.

### FISCAL IMPACTS OF RECOMMENDATION

Staff time is involved in developing reporting and response referrals to return to Council. Since hate crime reporting and response approaches have already been directed by Council to the City Manager, this referral can be incorporated into current staff time being used by that referral.

### CURRENT SITUATION AND ITS EFFECTS

From 1999-2010, hate crimes based on homeless status were documented throughout the United States with two states identified as having the highest number of hate crimes against the homeless, those states being California and Florida. (Hate Crimes Against the Homeless, January, 2012, a publication of the National Coalition on Homelessness). In addition, it can be presumed that there was underreporting.

Only three states have passed targeted legislation addressing reporting and response to homeless victims of hate crimes, those being Rhode Island, Maine and Florida. Nationally, HR3258, Hate Crimes Against the Homeless Statistics Act of 2011, was introduced in Congress. Action was never taken on that legislation with it dying as a result of the lack of action.

Homeless persons are easily the targets of hate crimes, often derided, and having their property, or themselves, physically attacked, based on their homeless status.

### BACKGROUND

On November 17, 2020, Council passed legislation referring to the City Manager to develop approaches improving reporting and response of hate crimes.

On February 10, 2021, the Homeless Commission voted unanimously as follows:

That Council refer to the City Manager to develop a targeted approach, towards persons with homeless status, to improving hate crime reporting and response consistent with the other approaches being developed for other populations under the City of Berkeley's Improving Hate Crimes Reporting and Response legislation passed by Council on November 17, 2020.

**Action:** M/S/C Behm-Steinberg/Kealoha-Blake move to approve the report.

**Vote:** Ayes: Kealoha-Blake, Shaw, Mulligan, Marasovic, Behm-Steinberg, Andrew.  
Noes: None. *Abstain:* None. *Absent:* None.

### ENVIRONMENTAL SUSTAINABILITY

There are no known identifiable environmental effects.

### RATIONALE FOR RECOMMENDATION

Persons are frequently the victim of hate crimes based on their homeless status. Neither the federal government nor the state government has enacted legislation targeted towards statistical reporting and responding to this specific group.

Since the City of Berkeley has recognized the need to improve reporting and response for hate crimes and has referred to the City Manager approaches to be developed, homeless persons should also be incorporated, with targeted approaches towards them, in reporting and responses.

### ALTERNATIVE ACTIONS CONSIDERED

The alternative is not to identify the specific hate crime reporting and response needs of the unhoused who are victims based on their homeless status.

CITY MANAGER

City manager concurs the content and recommendations of the commission's report.

CONTACT PERSON

Josh Jacobs, Commission Secretary (510) 981-5435.







Measure O Bond Oversight Committee

## CONSENT CALENDAR

April 20, 2021

To: Honorable Mayor and Members of the City Council  
 From: Measure O Bond Oversight Committee  
 Submitted by: Igor Tregub, Chairperson, Measure O Bond Oversight Committee  
 Subject: Measure O NOFA for BUSD-Sponsored Educator Housing

### RECOMMENDATION

Adopt a Resolution to refer to the City Manager to release a Notice of Funding Availability (NOFA) for a Berkeley Unified School District (BUSD)-employee housing development sponsored by the BUSD, to be funded from Measure O Bond funds, relying on the City's Housing Trust Fund Guidelines but allowing tenant incomes up to 120% of Area Median Income, and reviewed by the Measure O Bond Oversight Commission (MOBOC).

### FINANCIAL IMPLICATIONS

The NOFA may lead to the award of Measure O funds to an affordable housing development project. There are approximately \$24.5M projected remaining in the second issuance of Measure O bond funds, currently planned for 2022.

### CURRENT SITUATION AND ITS EFFECTS

At its December 10, 2019 meeting, the City Council allocated \$15,432,000 in Measure O bond funds from the second issuance to Resources for Community Development's Maudelle Miller Shirek Community development at 2001 Ashby, and specified the following next steps:

*"After funding the priorities listed above, establish housing for Berkeley Unified School District employees under the Teacher Housing Act of 2016 (Health and Safety Code Section 53570 et seq.) as the first priority for any remaining funding from the next planned issuance of Measure O funds; and the City Council will consider, after review and recommendation from the Measure O Bond Oversight Committee, forward committing funding once the Berkeley Unified School District presents the Measure O Bond Oversight Committee with a proposal with sufficient specificity as to reasonably enable such a forward commitment."*

The proposed BUSD NOFA would accomplish this. Staff recommend limiting the NOFA to project(s) sponsored by BUSD to ensure the proposed project meets BUSD employee needs. Staff also recommended that tenant eligibility be limited to employees making up to 100% of Area Median Income (AMI) to prioritize serving employees with

greater housing affordability needs. Income limits are set by the federal government for Alameda County and based on family size. The current 100% AMI limit is \$91,400 for a single person and \$130,500 for a family of 4. This would require waiving a section of the Housing Trust Fund (HTF) Guidelines that limits incomes and rents to 30% AMI and 60% AMI and below for the majority of the project.

This NOFA could be based on the HTF Guidelines with the exceptions noted above, with project review by the MOBOC.

At its February 1, 2021 meeting, the MOBOC took the following action:

Action: M/S/C (Daniels/Lustig) to recommend to Council to refer to the City Manager to release a Notice of Funding Availability (NOFA) for a BUSD-employee housing development sponsored by the Berkeley Unified School District, to be funded from Measure O Bond funds, relying on the City's Housing Trust Fund Guidelines but allowing tenant incomes up to 120% of Area Median Income, and reviewed by the Measure O Bond Oversight Commission (MOBOC).

Vote: Ayes: Carr, Costantini, Cutler, Daniels, Lee-Egan, Lustig, Marthinsen, and Tregub. Noes: Calavita. Abstain: None. Absent: None.

The MOBOC chose a 120% AMI over a 100% AMI constraint because of the broader applicability of accredited and certificated staff making 80-120% AMI as a target audience for this housing proposal.

Additional information about the BUSD proposal can be found here:

<https://www.berkeleyschools.net/wp-content/uploads/2021/01/BUSD-Housing-Report-7-24-20.pdf>.

### BACKGROUND

Funds would be available for the BUSD project from the second issuance of Measure O funds, currently projected for 2022. The following table shows the projected issuances.

<b>Issuance</b>	<b>Year</b>	<b>Amount</b>	<b>Projects Funded</b>
1	2020	\$38M	Table 2 below
2	2022*	\$40M*	\$15.5M reserved for 2001 Ashby Priority for BUSD project
3	2025*	\$35M*	To be determined
4	2027*	\$22M*	To be determined

\* Currently projected. Actual timing and amounts may change.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable direct environmental sustainability impact associated with the adoption of this recommendation. The financing of affordable housing, however, increases the chances of affordable housing being constructed, and, when sited in proximity with transit and amenities, has been found to reduce vehicle miles traveled and greenhouse gas emissions.

RATIONALE FOR RECOMMENDATION

This recommendation is fully consistent with the language and legislative intent of Measure O, which states:

*“Shall the measure to issue \$135 million in bonds to create and preserve affordable housing for low-income households, working families, and individuals including teachers, seniors, veterans, the homeless, and persons with disabilities; subject to citizen oversight and independent audits, be adopted?”*

The recommendation also responds to the immense need for and interest in BUSD employees as summarized below.

In 2018, BUSD worked with the Center for Cities and Schools through UC Berkeley to develop and implement a staff survey to better understand the demographics, incomes, housing and transportation patterns of their staff and most specifically to determine the level of need for and interest in affordable housing among BUSD staff. The 2018 report also included legal and historic studies. The results of the 2018 survey highlighted the following statistics:

- 74% of renters stated an interest in living in low-rent BUSD sponsored housing
- 78% of renters were experiencing financial pressures due to high housing costs
- 54% have considered leaving due to high housing costs
- 69% of BUSD employees currently live outside of Berkeley

In 2020, as part of the current scope of work, in order to accurately complete the financial modeling, an updated staff survey was crafted and implemented, through the assistance of the Center for Cities and Schools. The 2020 survey focused on collecting updated income data and a more specific understanding of household sizes, which are necessary inputs for evaluating the applicability of key sources of affordable housing financing. The results of the 2020 survey highlighted the following statistics:

- Interest in living in low rent BUSD housing remained high at 73%
- 65% of renters have income at or below 80% of AMI
- 78% of renters have household sizes of 3 persons or smaller<sup>1</sup>

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<sup>1</sup> BUSD Employee Affordable Housing Development Predevelopment Study and Feasibility Analysis of BUSD Sponsored Housing, dated July 24, 2020. <https://www.berkeleyschools.net/wp-content/uploads/2021/01/BUSD-Housing-Report-7-24-20.pdf>.

ALTERNATIVE ACTIONS CONSIDERED

The MOBOC considered continuing discussion of this recommendation until it could evaluate it in the context of additional needs and proposals, such as possible future funding for proposed housing at the Ashby and North Berkeley BART Station Areas. However, given the immense need for this proposal and its readiness to apply for a NOFA issued as part of Tranche 2 of Measure O funding, a majority of the MOBOC voted to advance this recommendation.

CITY MANAGER

The City Manager concurs with the content and recommendations of the Commission's Report.

CONTACT PERSON

Jenny Wyant, Acting Commission Secretary, HHCS (510) 981-5228

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

ISSUING A NOTICE OF FUNDING AVAILABILITY FOR AFFORDABLE EDUCATOR HOUSING SPONSORED BY BERKELEY UNIFIED SCHOOL DISTRICT

WHEREAS, on November 6, 2018, Berkeley voters approved Measure O, a \$135 million affordable housing bond measure to support the acquisition, development, and renovation of property for the creation or preservation of affordable housing; and

WHEREAS, the City's bond counsel indicated that approximately \$40 million is available for the second issuance of Measure O Bonds; and

WHEREAS, on December 10, 2019, City Council reserved \$15,432,000 from the second issuance of Measure O Bonds for Maudelle Miller Shirek Community (2001 Ashby), and indicated that a Berkeley Unified School District sponsored educator housing project would get first priority at the remaining funds in that issuance; and

WHEREAS, City Council established a Housing Trust Fund Program (the "HTF Program") 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

WHEREAS, City Council appointed a Measure O Bond Oversight Committee to oversee Measure O funding and confirm that expenditures meet the intent of the measure; and

WHEREAS, City Council adopted HTF guidelines (the "Guidelines") as revised on January 19, 2021, and authorized the City Manager to implement the HTF Program in accordance with the Guidelines; and

WHEREAS, the HTF Guidelines designate the Housing Advisory Commission to make funding recommendations to Council for HTF funds; and

WHEREAS, the City has not adopted Measure O-specific guidelines for administering and reserving the bond funds; and

WHEREAS, the HTF Guidelines currently require developments that receive HTF funding to establish rent limits below the threshold criteria for Moderate Income households that would exclude many households employed by the Berkeley Unified School District.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to issue a Notice of Funding Availability (NOFA) for the balance of the Measure O funds remaining after the Maudelle Miller Shirek Community reservation is fulfilled, estimated at \$24.5M, which will be made available for educator affordable housing sponsored by Berkeley Unified School District.

BE IT FURTHER RESOLVED that the Measure O Bond Oversight Committee will act in any role specified for the Housing Advisory Commission in the HTF Guidelines for the purpose of this Measure O NOFA.

BE IT FURTHER RESOLVED that the NOFA will be issued in accordance with the HTF Guidelines, with Section III.A.1 waived to allow affordability levels up to 120% of the Area Median Income.



Office of the Mayor

CONSENT CALENDAR

April 20, 2021

To: Members of the City Council

From: Mayor Jesse Arreguin

Subject: Contract No. 9369 Amendment: Badawi & Associates, Certified Public Accountants for Professional Auditing Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 9369 with Badawi & Associates to perform annual audits of the city's financial statements and to perform annual compliance audits required by the Single Audit Act of 1984 (as amended), for fiscal years 2021 (FY21) and 2022 (FY22), in the amount of \$171,330 for FY21 and \$171,330 for FY22. Increasing the contract value by \$372,660 which includes a \$30,000 contingency for new regulatory reporting including the Measure T1 Audit. This will increase the contract value from \$1,243,896 to \$1,616,556 for the period May 6, 2020 to June 30, 2023.

FISCAL IMPACTS OF RECOMMENDATION

This two-year contract extension will cost a total of \$342,660 for all funds, which is the same for the last previous year. (FY 2020).

Contract funding for the full 2-year extended term is as follows:

General Fund total cost of \$293,416 (011-99-900-9000-0000-000-412-612210)

- \$146,708 in FY 2021
- \$146,708 in FY 2022

Other Funds total budget of \$49,244, Business Economic Development fund (143-21-208-253-0000-000-446-612210) for \$12,244, Community Block Grant Development Fund (CDBG) (128-51-504-530-0000-000-444-612210) for \$32,000 and Measure F Alameda County Vehicle Registration Fee Fund (133-99-900-900-0000-000-412-612210) for \$5,000

- \$24,622 in FY 2021
- \$24,622 in FY 2022

CURRENT SITUATION AND ITS EFFECTS

On February 13, 2018 Council adopted Resolution No. 68,325-N.S. ratifying the Mayor's decision to exercise the two year option to extend Contract No. 9369B with Badawi & Associates and authorizing the City Manager to execute an amendment to the contract

for the incremental amount of \$489,899 for the performance of services to conduct annual financial audits of the City's financial statements and perform annual compliance audits as required by the Single Audit Act of 1984 (as amended in 1996) for the period July 1, 2019 through June 30, 2021, increasing the total not to exceed amount of the contract from \$753,997 to \$1,243,896.

The Mayor's Audit committee directed the Finance Director to initiate negotiations with Badawi & Associates to extend the contract for a two-year period to perform the required audits for fiscal year 2021 and 2022. Negotiations concluded with Badawi and Associates accepting zero increase for services to be performed for the period May 6, 2021 through June 30, 2023.

### BACKGROUND

On February 1, 2013, the City issued an RFP (Specification No. 13-10711-C) for qualified Certified Public Accountants to audit the City's financial statements for the three fiscal years ending June 30, 2013, 2014, and 2015, with an option for two additional years. These audits are performed in accordance with generally accepted auditing standards, the standards set forth for financial audits in the U. S. General Accounting Office's *Government Auditing Standards* (December 2011 edition), the provisions of the Federal Single Audit Act of 1984, as amended in 1996, and U. S. Office of Management (OMB) Circular A-133, *Audits of State, Local Governments, and Non-Profit Organizations*.

Badawi & Associates was awarded the contract for the initial three-year period (Ref: Resolution No. 66,140-N.S.); and the two renewal options were exercised (Ref: Resolution No. 67,463-N.S.). Badawi & Associates complete the required audits for fiscal years (FY) 2013 through and including FY2017. The City is extending this contract for the last time and will issue a RFP after the completion of this two-year extension.

### RATIONALE FOR RECOMMENDATION

Contract No. 9369 was awarded Badawi & Associates following a competitive solicitation process in which a request for proposals (RFP) was issue, 26 Certified Public Accounting firms were invited to participate, and 9 firms submitted proposal responses. Badawi & Associates represented the best overall value to the City following review of its proposal response and oral interview. The City is extending this contract for the next two years so that the Finance department can complete the current ERP implantation and build adequate bandwidth for taking the additional workload to issue an RFP and work through the process of city solicitation. To follow best practice per GFOA's recommendation, the city's Engagement Partner for the City of Berkeley audit was changed for the FY 2020 audit and going forward in line with GFOA best practices.



ALTERNATIVE ACTIONS CONSIDERED

The alternative is to initiate a new solicitation process by releasing an RFP for the required audit services.

CONTACT PERSON

Henry Oyekanmi, Director of Finance, 981-7300

Attachments:

1: Resolution

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

CONTRACT NO. 9369 AMENDMENT: BADAWI & ASSOCIATES TO PROVIDE  
COMPREHENSIVE PROFESSIONAL AUDITING SERVICES

WHEREAS, the City currently has a contract No. 9369 with Badawi & Associates, a certified public accounting firm to provide comprehensive, professional auditing services to the City; and

WHEREAS, the term of Contract No. 9369 will expire on June 30, 2021; and

WHEREAS, the Mayor desires to amend the contract to extend the term for an additional two-year period, and

WHEREAS, Badawi & Associates desires to continue to perform the services for the extended two-year period; and

WHEREAS, the City Charter gives the Mayor sole authority to select the firm to perform the City's annual audit; and

WHEREAS, the Mayor has determined that it is in the best interest of the City to amend the contract as before stated.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend Contract No. 9369 with Badawi & Associates to perform annual audits of the City's financial statements and to perform annual compliance audits required by the Single Audit Act of 1984 (as amended), for fiscal year 2021 (FY21), in the amount of \$171,330 and fiscal year 2022 (FY22) in the amount of \$171,330 plus a contingency of \$30,0000 which includes the audit of Measure T1, increasing the maximum contract value by \$372,660 from \$1,243,896 to \$1,616,556 for the period May 6, 2021 to June 30, 2023.



CONSENT CALENDAR

DATE: April 20, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin, Mayor Arreguin (co-sponsor)

Subject: Budget Referral: Remediation Plan for Lawn Bowling Green and North Bowling Green

RECOMMENDATION

Refer to the budget process the development of a remediation plan, with further testing and cost estimate, for the Berkeley Lawn Bowling Green at 2270 Acton St and the North Bowling Green at 1324 Allston Way.

BACKGROUND

According to an Analysis of City-Owned Property provided to the City Council in 2017, the North Bowling Green “contains elevated levels of pesticides and metals, and the contaminated soil would need to be excavated or encapsulated prior to active use or development[.]”<sup>1</sup> The parcel is also protected from development by Measure L, but is currently fenced off and vacant.

The North Bowling Green has not been in use as a lawn bowling green since 2008. It is one block from the Strawberry Creek Lodge 150-unit affordable senior complex, Strawberry Creek Park, and the Berkeley Lawn Bowling Club.

A budget referral from 2019<sup>2</sup> erroneously estimated \$150,000 as the lower bound of the full cost of remediation itself, but city staff estimates that the cost will be much higher, pending further testing and remediation that must include both sites.

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<sup>1</sup> [https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_General/2019-02-21%2520Land%2520Use%2520Policy%2520Committee%2520Agenda%2520Packet\(1\).pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_General/2019-02-21%2520Land%2520Use%2520Policy%2520Committee%2520Agenda%2520Packet(1).pdf)

<sup>2</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/06\\_June/Documents/2019-06-11\\_Item\\_47\\_Budget\\_Referral\\_\\_\\_Remediation\\_of\\_Lawn\\_Bowling.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/06_June/Documents/2019-06-11_Item_47_Budget_Referral___Remediation_of_Lawn_Bowling.aspx)

### RATIONALE FOR RECOMMENDATION

The city-owned vacant parcel with toxic soil is fenced off and does not confer any benefit to the public. Upon further testing and financial modeling, a remediation plan may present the full cost of toxic soil cleanup. No plan for park space, affordable housing, or any other previously proposed uses can be contemplated before these costs are fully determined. Due to their adjacency to the Corporation Yard and Santa Fe ROW, both bowling green sites would have to be included in the development of a remediation plan.

### ENVIRONMENTAL IMPACTS

Determining costs of environmental remediation for toxic soil.

### FISCAL IMPACTS

In communication with the District 2 office, Parks, Recreation, & Waterfront Department staff has estimated the cost of testing, cost estimates, and development of a remediation plan to be roughly \$90,000-\$110,000.

### CONTACT

Councilmember Terry Taplin (District 2), 510-981-7120



CONSENT CALENDAR

DATE: 04/20/2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin (Author), Councilmember Kesarwani (Co-Sponsor)

Subject: Support for AB 1401: parking reform

RECOMMENDATION

Send a letter to Assemblymember Laura Friedman, State Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Assembly Bill 1401, which would eliminate parking requirements for housing and commercial buildings near transit and in low-VMT areas.

BACKGROUND

On February 19, 2021, Assemblymember Laura Friedman (D-Glendale), Chair of the Assembly's Transportation Committee, introduced Assembly Bill 1401<sup>1</sup> which will eliminate requirements that homes and commercial buildings near transit or in neighborhoods with less car use be built with more parking than is necessary.

In a statement, Assemblymember Friedman said: "It's seems that for years we've been trading housing for parking. We're in the midst of a housing crisis, desperately looking for a solution, and we need to consider all options to reduce the overall cost of housing. There are plenty of communities in our state that have access to high-quality transit, or where cars are underutilized, that need housing far more than they need parking."

A study by TransForm of 80 multi-family residential buildings around the San Francisco Bay Area, found over 28% of parking spaces, or over 1 million square feet, were unused.<sup>2</sup> A similar study published by the Transportation Research Board found that 45% of spaces in 13 shopping centers near Santa Clara County's Valley Transportation

<sup>1</sup> [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220AB1401](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1401)

<sup>2</sup> Cohen, S. (2015). AB 744's Paradigm Shift: Affordable Homes Instead of Empty Parking Spaces. *TransForm*. Retrieved from <https://www.transformca.org/transform-blog-post/ab-744s-paradigm-shift-affordable-homes-instead-empty-parking-spaces>

Authority Light Rail stations were unused, during both the holiday shopping season and the off-season.<sup>3</sup> A study by the City of San Diego of 21 affordable housing developments found that 39% of the parking, or over 400 spaces at a cost of between \$12 million and \$30 million, were unused.<sup>4</sup> An analysis of 252 California cities found that “each additional parking restriction imposed by cities is associated with a 1.6 percentage point reduction in the share of workers who reside in the city.”<sup>5</sup>

A study of parking reform in Seattle found that developers built 40% fewer parking spaces than previous regulations would have required, saving over \$500 million on hard construction costs, but 70% of new housing projects studied still provided some parking.<sup>6</sup>

California has instituted some incremental reforms to parking mandates. AB 744 (2015) limits local parking requirements to 0.5 spaces per bedroom for housing near transit that uses the state density bonus program or is 100% affordable to lower-income households. Projects that are streamlined under SB 35 (2017) are exempt from parking requirements if the project is near transit or within a historic district, and may not be required to provide more than one space per housing unit in all other areas.

## RATIONALE FOR RECOMMENDATION

On March 19, 2021, Ordinance 7,751-N.S. became effective in Berkeley after being adopted by the City Council, eliminating minimum residential parking requirements across all zoning districts (except in the ES-R district, and except in the Hillside Overlay district on roads less than 26 feet in width) and requiring Transportation Demand Management (TDM) measures for projects with ten or more units. The City Council passed this ordinance in response to the oversupply of parking, the need to reduce Vehicle Miles Traveled (VMT) per capita, and the shortage of housing. California’s housing shortage is a crisis of statewide importance, and these evidence-based reforms should be followed on that scale.

## ENVIRONMENTAL IMPACTS

According to the California Air Resources Board, the state must achieve a 25% reduction in Vehicle Miles Traveled (VMT) per capita, even under the best-case

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<sup>3</sup> Smith, A. (2013). Parking Utilization in Neighborhood Shopping Centers on Transit Routes in San Jose, California: Are Minimum Parking Requirements Too High? *Transportation Research Record: Journal of the Transportation Research Board*. <https://doi.org/10.3141/2359-04>

<sup>4</sup> WilburSmith Associates. (2011). San Diego Affordable Housing Parking Study. *City of San Diego*. Retrieved from <https://www.sandiego.gov/sites/default/files/legacy/planning/programs/transportation/mobility/pdf/111231sdafhfinal.pdf>

<sup>5</sup> Durst, N. J. (2021). Residential Land Use Regulation and the Spatial Mismatch between Housing and Employment Opportunities in California Cities. *Terner Center for Housing Innovation*. Retrieved from <http://californialanduse.org/download/Durst%20Residential%20Land%20Use%20Regulation%202020.pdf>

<sup>6</sup> Gabbe, C. J. et al. (2020). Parking policy: The effects of residential minimum parking requirements in Seattle. *Land Use Policy* (91). Retrieved from <https://www.sciencedirect.com/science/article/abs/pii/S0264837718312870?via%3Dihub>

scenario of Zero-Emission Vehicle (ZEV) adoption.<sup>7</sup> Reducing the excess supply of parking to produce more housing near transit will reduce VMT per capita. This strategy is already outlined in Berkeley's Climate Action Plan, but VMT reduction is a critical statewide policy goal.

#### FISCAL IMPACTS

None.

#### CONTACT

Councilmember Terry Taplin, District 2, 510-981-7120

#### ATTACHMENTS/SUPPORTING MATERIALS

1. Letter of Support

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<sup>7</sup> California Air Resources Board. (2018). 2018 Progress Report. Retrieved from [https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report\\_SB150\\_112618\\_02\\_Report.pdf](https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report_SB150_112618_02_Report.pdf)

The Honorable Laura Friedman  
California State Assembly  
State Capitol  
Sacramento CA 95814

**RE: City of Berkeley's support for Assembly Bill 1401**

Assemblymember Friedman:

The City Council of the City of Berkeley hereby conveys its strong support for your Assembly Bill 1401 to eliminate local minimum parking requirements for both residential and commercial buildings.

On March 19, 2021, a parking reform ordinance (Ordinance 7,751-N.S.) became effective in Berkeley after being adopted by the City Council, eliminating minimum residential parking requirements across all zoning districts (except in the ES-R district, and except in the Hillside Overlay district on roads less than 26 feet in width) and requiring Transportation Demand Management (TDM) measures for projects with ten or more units. The City Council is proud of its effort to reduce transportation emissions in our city by reallocating square footage from underutilized automobile storage for more housing in walkable and transit-rich communities.

Similarly, AB 1401 will prevent the wasteful overproduction of parking spaces, and reduce car dependency and carbon emissions. In doing so, it will also encourage greater transit usage and more housing and businesses near transit, helping to revitalize walkable commercial corridors across the state. We encourage the state legislature to follow in Berkeley's footsteps by passing this important bill.

We thank you for your leadership in addressing climate change, and promoting sustainable transportation and housing affordability with this important legislation.

Signed,

Berkeley City Council

CC:

Senator Nancy Skinner

Assemblymember Buffy Wicks



CONSENT CALENDAR

DATE: April 20, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin (Author)

Subject: Support for SB-519: controlled substances

RECOMMENDATION

Send a letter of support for Sen. Wiener's Senate Bill 519, which would decriminalize psilocybin, psilocyn, MDMA, DMT, ketamine, mescaline, and ibogaine; expunge criminal records for use and possession of these substances; and establish a commission to provide recommendations to the state legislature on therapeutic uses.

BACKGROUND

In 2021, Senator Scott Wiener introduced Senate Bill 519 to decriminalize the possession and personal use of the following substances: psilocybin, psilocyn, 4-methylenedioxymethamphetamine ("MDMA"), Lysergic acid diethylamide ("LSD"), ketamine, Dimethyltryptamine ("DMT"), mescaline (from non-peyote sources) and ibogaine, given these substances can have therapeutic and medicinal benefits. This bill will also expunge any criminal records for people convicted of possession or personal use of these substances. SB 519 will establish a commission that will provide the Legislature with regulatory recommendations that California should adopt to legalize personal and therapeutic use of these specified substances.

Existing law lists psilocyn, psilocybin, mescaline, MDMA, LSD, DMT and ibogaine as Schedule I Drugs. According to the Drug Enforcement Agency (DEA), Schedule I Drugs have "no accepted medical use and high potential for abuse." Ketamine is listed as a Schedule III drug and is Food and Drug Administration (FDA)-approved to treat depression. California law criminalizes the possession, sale, and transfer of Schedule I drugs.

In the 1950s, LSD was studied for its potential benefits in treating alcoholism.<sup>1</sup> Research on the medicinal uses of psychedelics and other controlled substances largely halted after the 1970 signing of the Controlled Substances Act by President Nixon. In later interviews, former Nixon adviser John Ehrlichman explained that Nixon's War on Drugs was explicitly designed for racist and political ends, rather than for public health and safety:

“The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and black people. You understand what I'm saying? We knew we couldn't make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did.”<sup>2</sup>

In recent years, emerging medical research has revived an interest in therapeutic uses of psychedelics and other controlled substances.<sup>3</sup> Washington, D.C. voters passed Initiative 81 in 2020, which decriminalized personal use and possession of plant-based psychedelics.<sup>4</sup> In the state of Oregon, voters approved two ballot measures decriminalizing non-commercial possession<sup>5</sup> of all scheduled substances, and creating a state-licensed psilocybin-assisted therapy program.<sup>6</sup> In the state of California, two municipalities (Oakland and Santa Cruz) have introduced decriminalization ordinances.

In recent years, the FDA has issued “Breakthrough Therapy” distinctions to MDMA-assisted therapy for PTSD and psilocybin-assisted therapy for treatment-resistant depression, respectively, which expedites the process for approval as treatment for serious or life-threatening conditions.<sup>7</sup>

## RATIONALE FOR RECOMMENDATION

Mental health treatment and ending the War on Drugs are both racial equity issues. According to the U.S. Department of Health and Human Services, Black adults are

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<sup>1</sup> Costandi, M. (2014). A brief history of psychedelic psychiatry. *The Guardian*. Retrieved from <https://www.theguardian.com/science/neurophilosophy/2014/sep/02/psychedelic-psychiatry>

<sup>2</sup> Baum, D. (2014). Legalize it all: How to win the war on drugs. *Harper's Magazine*. Retrieved from <https://harpers.org/archive/2016/04/legalize-it-all/>

<sup>3</sup> Carhart-Harris, R. L., & Goodwin, G. M. (2017). The Therapeutic Potential of Psychedelic Drugs: Past, Present, and Future. *Neuropsychopharmacology : official publication of the American College of Neuropsychopharmacology*, 42(11), 2105–2113. <https://doi.org/10.1038/npp.2017.84>

<sup>4</sup> [https://decrimnaturedc.org/wp-content/uploads/2020/02/Entheogenic\\_Plant\\_and\\_Fungus\\_Policy\\_Act\\_of\\_2020\\_published\\_2\\_18\\_2020.pdf](https://decrimnaturedc.org/wp-content/uploads/2020/02/Entheogenic_Plant_and_Fungus_Policy_Act_of_2020_published_2_18_2020.pdf)

<sup>5</sup> <http://oregonvotes.org/irr/2020/044text.pdf>

<sup>6</sup> <http://oregonvotes.org/irr/2020/034cbt.pdf>

<sup>7</sup> Serkis, S. (2020). Psychology Trends For 2021: Psilocybin, MDMA, and Covid-19 Aftereffects. *Forbes*. Retrieved from <https://www.forbes.com/sites/stephaniesarkis/2020/12/09/psychology-trends-for-2021-psilocybin-mdma-and-covid-19-aftereffects/?sh=a7ab8a95ce03>

more likely to report persistent symptoms of emotional distress, but are least likely to receive adequate care for mental health.<sup>8</sup>

ENVIRONMENTAL IMPACTS

None.

FISCAL IMPACTS

None.

CONTACT

Councilmember Terry Taplin, District 2, 510-981-7120

ATTACHMENTS/SUPPORTING MATERIALS

1. Letter of Support

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<sup>8</sup> <https://www.minorityhealth.hhs.gov/omh/browse.aspx?lvl=4&lvlid=24>

Honorable Sen. Scott Wiener  
State Capitol, Room 5100  
Sacramento, CA 95818

**RE: Support for SB 519 (Wiener) re: decriminalizing possession and use of  
psychedelic substances**

Senator Wiener:

The City Council of the City of Berkeley hereby registers its support of Senate Bill 519, to decriminalize the possession and personal use of the following substances: psilocybin, psilocyn, MDMA, LSD, ketamine, DMT, mescaline (from non-peyote sources) and ibogaine, as an incremental step to dismantle the white supremacist War on Drugs policies that have harmed Black and brown communities for decades. This legislation will also expunge any criminal records for people convicted of possession and personal use of these substances, and establish a working group to provide recommendations to the Legislature on therapeutic use.

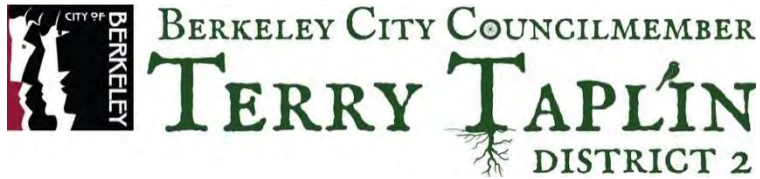
In the 1960s, researchers were conducting promising studies on the effectiveness of psychedelic substances to treat ailments such as depression and PTSD, until the War on Drugs halted this work. Today, we know this racist policy framework does not improve public safety, deter personal use, or help people may be experiencing substance use disorder. Modern research on psychedelics shows promising signs for mental health treatment.

California must stop criminalizing substances that have potentially major medical potential. Thank you for your leadership with this important legislation.

Respectfully,

City Council  
City of Berkeley  
2180 Milvia St  
Berkeley, CA 94704

cc: Senator Nancy Skinner  
Assemblymember Buffy Wicks



CONSENT CALENDAR

April 20, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmembers Terry Taplin (Author), Ben Bartlett, and Kate Harrison (Co-Sponsors)

Subject: Urge the AC Transit Board of Directors to Restore the 80-Ashby/Sixth Street Bus Line

RECOMMENDATION

Send a letter to the AC Transit Board of Directors urging the restoration of the 80-Ashby/Sixth Street bus line to its pre-pandemic level of service.

BACKGROUND

The sudden halting of normal life in the Bay Area when the quick rise of the COVID-19 pandemic initiated a statewide stay-at-home order in March of 2020 disrupted much of the Bay Area's economy and daily life. The health of our community and our economy were quickly threatened by the pandemic and business closures in a manner that allowed for very little planning and a great deal of turbulence. In response to the sudden economic recession and the need for socially distanced travel, AC Transit made ridership free of charge. This change, while a good one, as well as the overall decline in demand for buses during the stay-at-home order, resulted in a 71% decline in ridership and a monthly loss of \$5 million as of July 2020.<sup>1</sup> In response to this, AC Transit began temporarily terminating some bus lines and considering the permanent cut of 15 to 30% of total services.<sup>2</sup>

Among those considered for permanent termination, the 80-Ashby/Sixth Street bus line is one which would be an incredible loss should it not return from its current temporary closure. The 80 line, which runs down Ashby Avenue from The Claremont then north along Sixth Street and through Albany to end in El Cerrito, offers a transportation method along a corridor of the East Bay that is sparsely accessible by BART and other AC Transit lines. The permanent closure of this line, which connects the South Berkeley Senior Center and the Berkeley Pines Care Center to Ashby BART and Alta Bates Medical Center, would be a particularly detrimental loss for the East Bay's senior community, as many have relied on it for their independence and medical care access for years.

<sup>1</sup> <https://www.berkeleyside.com/wp-content/uploads/2020/07/STAFF-REPORT.pdf>

<sup>2</sup> <https://www.berkeleyside.com/2020/07/08/ac-transit-bus-service-cuts-berkeley-ca-coronavirus-transbay>

Furthermore, due to its unique route, the closure of the 80 line would only result in more East Bay residents turning to cars for their transportation needs. This would hamper the progress Berkeley has made towards reducing its carbon emissions at a time when a drastic shift in our mobility away from cars and towards low-carbon public transit is more important than ever. Berkeley's own Climate Action Plan points to the expanded use and accessibility of public transportation such as the 80 line as a key ingredient towards our emission reduction and climate action goals.<sup>3</sup> Every lost bus line is a defeat for our environment and our community, but the loss of the 80 line would be especially damaging.

### ENVIRONMENTAL IMPACTS

The City estimates that transportation-related emissions accounts for approximately 60% of our community's total annual greenhouse gas emissions.<sup>4</sup> The restoration of AC Transit's 80-Ashby/Sixth Street bus line will strengthen alternatives to car transportation and lower the emissions of our community's dominant source of carbon pollution.

### CONTACT

Terry Taplin, Councilmember, District 2, (510) 981-7120

### ATTACHMENTS

1. Letter

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<sup>3</sup>[https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Energy\\_and\\_Sustainable\\_Development/Berkeley%20Climate%20Action%20Plan.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/Berkeley%20Climate%20Action%20Plan.pdf)

<sup>4</sup>[https://www.cityofberkeley.info/Clerk/City\\_Council/2018/12\\_Dec/Documents/2018-12-06\\_WS\\_Item\\_01\\_Climate\\_Action\\_Plan\\_Update\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/12_Dec/Documents/2018-12-06_WS_Item_01_Climate_Action_Plan_Update_pdf.aspx)

Board of Directors  
Alameda-Contra Costa Transit District  
1600 Franklin Street, 10th Floor  
Oakland, CA 94612

**Re: Restoration of the 80-Ashby/Sixth Street Bus Line**

Dear President Ortiz, Vice-President Young, and Directors,

The Berkeley City Council urges that the 80-Ashby/Sixth Street AC Transit bus line be restored to its pre-pandemic level of service. This bus line, which serves much of Berkeley, Albany, and El Cerrito, is a critical community transportation service that allows residents to travel car-free through a long stretch of the East Bay which is not accessible on BART and provides a unique route compared with other AC Transit lines.

The full termination of the 80 line, as is currently under consideration, would represent a resounding defeat for Berkeley and the broader Bay Area's pursuit of more widely accessible public transportation and a car-free transportation sector. While we understand that the decline in ridership during the COVID-19 stay-at-home order has taken a serious toll on AC Transit's revenue, the steady shift out of the pandemic that we are seeing as vaccinations become more widespread should result in the return of riders within months.

As a connecting line between the Ashby BART station, Alta Bates Medical Center, the South Berkeley Senior Center, and the Berkeley Pines Care Center, the loss of the 80 line would permanently deprive many Berkeley seniors of a method of transportation that they have relied on in the past. Those left with no transportation alternatives will likely turn to car travel, be it with personal automobiles or through ride-hailing mobile apps, which will only increase local fossil fuel emissions and air pollution while decreasing street safety. Our community's senior accessibility needs, climate change mandate to lower emissions, and desire to make our streets safer for pedestrians and cyclists, all necessitate the restoration of the 80 line as soon as possible. All of our bus lines are precious and important, but in the face of financial cuts, the 80 line must not be on the chopping block.

Sincerely,

The Council of the City of Berkeley

CC: Elsa Ortiz, President

Joel B. Young, Vice-President

Mark Williams, Director

Diane Shaw, Director

H.E. Christian Peeples, Director

Jovanka Beckles, Director

Jean Walsh, Director





# BEN BARTLETT

CITY COUNCILMEMBER, DISTRICT 3

## CONSENT CALENDAR

April 20, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Ben Bartlett (Author), Councilmember Taplin  
(Co-Sponsor)

Subject: Letter in support of AB 816 “State and Local Agencies: Homelessness Plan”

### RECOMMENDATION

That the Mayor of Berkeley and Members of City Council supports AB 816 “State and Local Agencies: Homelessness Plan” by sending a letter of support to Assemblymember David Chiu, State Senator Nancy Skinner, and Assemblymember Buffy Wicks to express the City of Berkeley’s support for AB 816.

### BACKGROUND

AB-816 will require a statewide needs and gap analysis to be conducted, identify state programs that provide housing or service to unhoused persons and create a financial model that will assess investment needs for the purpose of moving persons who are experiencing homelessness into permanent housing. Cities throughout the Bay Area contain large homeless populations. We as a regional community need to work collectively with the state to solve our homeless problems. Any neighboring cities homelessness will impact our Berkeley community and nearby Oakland’s homelessness rate has now climbed to 940 per 100,000 people, which is higher than either San Francisco’s rate, at 906, or Berkeley’s rate, at 898<sup>1</sup>. The bill will require the coordinating council to report on the analysis by July 31, 2022. The Department of Community and Housing Development will set a benchmark goal for reducing homelessness by January 1, 2029. Each local agency will be required to submit an actionable county-level plan to meet specified annual benchmarks and the state benchmark goal. Local agencies will be required to submit an annual progress report to the department that details progress, implementation and any amendments to the proposed plan. A Housing and Homelessness Inspector General, within the department will be appointed by the governor and confirmed by the senate who will be able to bring an action against the state, local agency or city that fails to adopt the plan.

### CURRENT SITUATION

The Housing Crisis in California is well established. However, the number of unhoused persons continue to rise with over 150,000 people experiencing homelessness daily<sup>2</sup>. Homelessness in the City of Berkeley and throughout the Bay Area has also been rising at an increasing rate. Berkeley currently has 1,108 homeless residents, of whom 813 were living on the street (as of a

<sup>1</sup> <https://docs.google.com/document/d/1fEmluh-i2RJsU1s9T5SuNdYIAwWNKIJeJiDEepSomGE/edit>

<sup>2</sup> <https://steinberginstitute.org/press-release/assemblymember-chiu-introduces-bill-to-create-a-legal-obligation-to-reduce-homelessness-in-california/>

point-in-time count in January 2019). This represents a 14% increase in two years.<sup>3</sup> California homelessness is significantly higher than other states, according to statistics done by the USICH<sup>4</sup>. During the COVID-19 pandemic, addressing the issue of homelessness becomes even more urgent. California is experiencing two simultaneously occurring public health crises-- COVID-19 and homelessness. Due to a lack of access to shelter, unhoused persons have difficulty practicing effective personal hygiene routines<sup>5</sup>. As a result, unhoused persons are at a significantly higher risk of contracting COVID-19 and spreading it to other community members. To address this threat to public health, the State of California must direct funding and policy efforts towards addressing and ending the issue of homelessness.

#### REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

Existing law requires the Governor to create the Homeless Coordinating and Financing Council (referred to as “the coordinating council”) and to appoint up to 19 members of that council, as provided. Existing law specifies the duties of the coordinating council, including creating partnerships among state agencies <sup>6</sup>.

#### RATIONALE FOR RECOMMENDATION

The passage of AB-816 would benefit the City of Berkeley and the community through addressing the homelessness crisis. Homelessness has clearly been a large issue in Berkeley and local officials have taken action for the homeless community most recently during the shelter in place order<sup>7</sup>. By supporting this bill, Berkeley will be able to address homelessness through and with the support and collaboration of the county, neighboring cities, and the state.

#### ENVIRONMENTAL SUSTAINABILITY

No impact.

#### FISCAL IMPACTS

Staff time to review/edit letters and postage.

#### CONTACT PERSON

Councilmember Ben Bartlett:	510-981-7130
Xitlali Parada	510-981-7135
James Chang	510-918-7131

#### ATTACHMENTS AND MATERIALS

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<sup>3</sup> [https://docs.google.com/document/d/1TtUajFluEAeqB\\_A8vkJ03Y4Jw5cpPI-2M1sgggG-Bg/edit#heading=h.3fwt2yc1do](https://docs.google.com/document/d/1TtUajFluEAeqB_A8vkJ03Y4Jw5cpPI-2M1sgggG-Bg/edit#heading=h.3fwt2yc1do)

<sup>4</sup> <https://www.usich.gov/homelessness-statistics/ca/>

<sup>5</sup> <https://community.solutions/understanding-public-health-and-homelessness/>

<sup>6</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB816](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB816)

<sup>7</sup> <https://www.dailycal.org/2020/04/10/berkeley-homeless-community-struggles-amid-covid-19-city-responds/>

1. Letter to Assemblymember Chiu.

Attachment 1:

XX,XX,20XX

The Honorable Assemblymember Chiu  
State Capitol Office, Room 4112  
P.O. Box 942849  
Sacramento, CA 94249

Re: City of Berkeley's support for AB-816 State and local agencies: homelessness plan.-  
SUPPORT

Dear Assemblymember Chiu:

The Honorable Mayor and Members of the Berkeley City Council are pleased to support Assembly Bill 816 (AB-816). AB-816 will identify and hold accountability towards local entities to address homelessness and create an actionable plan to reduce homelessness by January 1, 2029.

It is vital that California comes together to address homelessness and reduce its numbers. By passing a bill that will closely monitor local and city entities' progress, it is clear that AB-816 will ensure California reduces homelessness and supports a community in need. For these reasons, we strongly support AB-816.

Respectfully,  
The Honorable Mayor and Members of the Berkeley City Council

Jesse Arreguin  
Mayor, City of Berkeley

Members of the Berkeley City Council





# BEN BARTLETT

CITY COUNCILMEMBER, DISTRICT 3

## CONSENT CALENDAR

April 20, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Ben Bartlett (Author), Terry Taplin, and Kate Harrison (Co-Sponsors)

Subject: Letter of Opposition to the Federal Aviation Administration's proposal to shift the WNSDR commercial airliner flight corridor directly over residential neighborhoods in Berkeley, Richmond, El Cerrito, and Albany

### RECOMMENDATION

That the Mayor of Berkeley and Members of the City Council oppose the Federal Aviation Administration's (FAA) proposal to re-route commercial airline traffic (the WNSDR arrival flight path to Oakland International Airport) directly over residential neighborhoods in Berkeley, Richmond, El Cerrito, and Albany beginning in October 2021. The Council should send letters to Rep. Barbara Lee, Rep. Mark DeSaulnier, Sen. Dianne Feinstein, Sen. Alex Padilla, Governor Gavin Newsom, State Senator Nancy Skinner, Assemblymember Buffy Wicks, US Secretary of Transportation Pete Buttigieg, the FAA's Western Pacific Regional Director, Raquel Girvin, and the Oakland Airport Community Management Noise Forum facilitator, Mike McClintock.

### CURRENT SITUATION

On May 28, 2020 at the FAA Briefing to Oakland Airport Noise Forum – NextGen Technical Subcommittee they announced plans to shift the WNSDR Area Navigation procedure for aircraft arriving into the Oakland International Airport starting October 2021, as part of additional Air Traffic Control modifications to the Northern California Metroplex. Aircraft arriving from the north and east currently fly down the spine of the East Bay Hills. This proposal would shift the path two miles southwest-- directly over Berkeley, Richmond, El Cerrito, Albany, and a larger section of Oakland and Piedmont.<sup>1</sup> In Berkeley, this area encompasses South, West, Central, and North parts of the city. According to the FAA, 163,000 residents will be adversely impacted instead of the current 76,000 residents.<sup>2</sup>

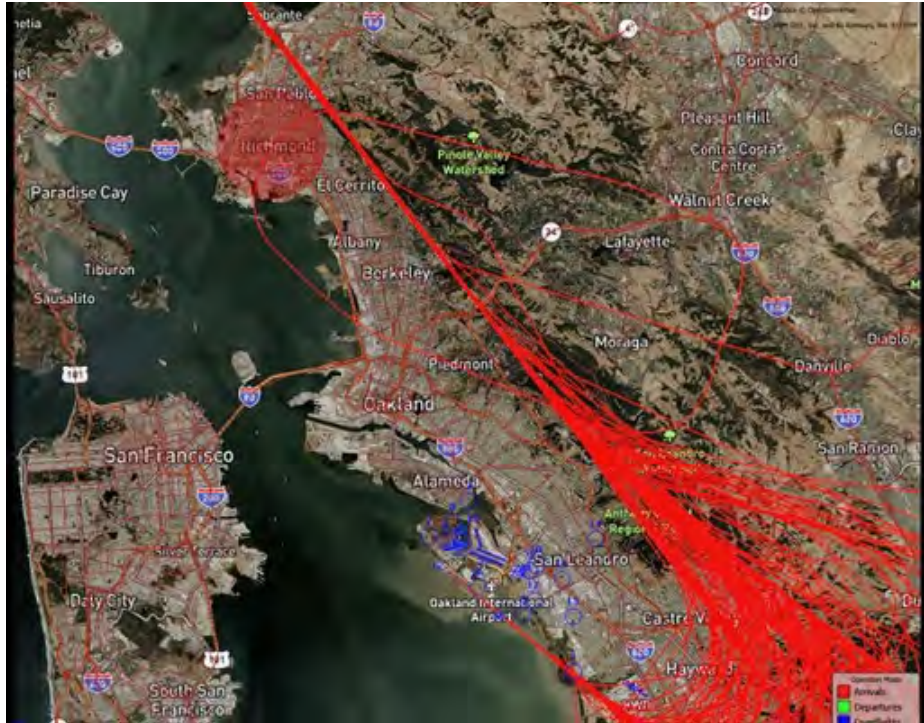
### BACKGROUND

The FAA has cited safety concerns related to the complexity of Bay Area airspace in its proposal to move the flight path. The agency points to the current path of 35+ aircraft per day over the East Bay Hills as being located too close to a departure path, as well as traffic from neighboring airports. The agency has considered and rejected alternative WNSDR paths proposed by the

<sup>1</sup>Federal Aviation Administration: "[FAA Briefing to Oakland Airport Noise Forum-- NextGen Technical Subcommittee](#)," May 28, 2020.

<sup>2</sup>Richmond Pulse: "[Oakland Airport Flight Path Could Go Over Heart of Richmond](#)," July 17, 2020.

Oakland Airport Community Noise Management Forum.



Above is a map showing the current path of departures from Oakland International Airport (OAK), demonstrating the density of the WNSDR flight path.



Above is a map showing the proposed change in the WNSDR flight path running directly through the Center of Berkeley.

Since first presenting its proposal to the public through a quarterly meeting of the Oakland



Airport Noise Forum in July 2020, the FAA has not conducted a meaningful public outreach and engagement process to inform impacted residents, described the type of environmental analysis that will be carried out to analyze the impacts of the modification, or addressed concerns about how the proposed changes will affect communities that have historically suffered the most from environmental injustice, as living near airports has been linked to greater risks of adverse impacts to health.

Numerous studies have shown that people living near airports are exposed to higher health risks.<sup>3</sup> Notable risks include high blood pressure<sup>4</sup> and heart disease<sup>5</sup>, which are just two of the effects of aircraft noise and polluting, high particulate levels in ambient air. The proposed path of the WNSDR corridor goes directly through cities that have historically suffered adverse environmental discrimination with attendant health impacts.

#### REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

Currently, the WNSDR flight corridor requires aircraft to fly along the East Bay hills, avoiding the Berkeley flatlands.

#### RATIONALE FOR RECOMMENDATION

The change in the WNSDR path proposed by the FAA would result in aircraft flying through the heart of Berkeley flatlands at a height of 4,000-5,000 feet, if not lower. The resulting noise and emissions pollution would have detrimental health impacts to the Berkeley community.

#### ENVIRONMENTAL SUSTAINABILITY

The FAA has declined to conduct an adequate environmental analysis to determine how the flight path change will impact communities.

#### FISCAL IMPACTS

No fiscal impacts besides staff time.

#### CONTACT PERSON

Councilmember Ben Bartlett:	510-981-7130
James Chang	510-981-7131
Lev Gordan- Feierabend	510-981-7135

#### ATTACHMENTS AND MATERIALS

1. Sample Letter to Elected Officials, FAA, and the Oakland Airport Community Noise Management Forum
2. May 28, 2020 Briefing to the Oakland Airport Noise Forum's NextGen Technical Subcommittee
3. July 16, 2020 *Richmond Standard* Article, "Richmond Speaks Out Against Proposed Flight Path Over City"
4. January 25, 2021 Letter to the FAA from Rep. Mark DeSaulnier and Rep. Barbara Lee

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<sup>3</sup> <https://www.latimes.com/local/la-me-0529-lax-pollution-20140529-story.html>

<sup>4</sup> <https://catalog.camfil.us/living-near-an-airport-could-be-a-matter-of-life-and-death.html>

<sup>5</sup> <https://deohs.washington.edu/hsm-blog/measuring-seatac-air-traffic-pollution>

Attachment 1: Sample Letter

RE: Proposed FAA Flight Path Changes Affecting Berkeley, California

Dear [Name of Official],

On behalf of the City of Berkeley, California, we are writing to voice our opposition to the Federal Aviation Administration's (FAA's) July 2020 proposal to modify the WNDSR Area Navigation procedure. This proposal would shift the path of flights arriving to the Oakland International Airport (OAK) over the Berkeley flatlands and neighboring communities, which have historically suffered adverse environmental effects. The proposed change would exacerbate existing environmental inequities faced by communities of color.

We are opposed to this change for the following reasons:

- **The Berkeley flatlands already shoulder an unequal share of environmental injustices** as a formerly redlined area.
- **Airplanes negatively impact the health of the communities they fly over.** Studies by the University of Washington<sup>6</sup> and University of California Irvine<sup>7</sup> have linked the air and noise pollution resulting from the proximity of planes to serious illnesses like heart disease and high blood pressure.
- **The FAA has not conducted adequate outreach on this issue in our diverse community.** Apart from the Oakland Airport Community Noise Management Forum, the vast majority of Berkeley residents are not aware of the proposal and have not been asked to give their input.
- **The proposed change affects more than twice the number of residents.** According to the FAA, 163,000 residents would be negatively impacted, compared to the current 76,000 residents.<sup>8</sup>
- **The FAA has not provided alternative routes.** If the FAA is serious about planning with impacted communities, and resolving noise and emissions problems, the FAA must offer alternative flight paths for consideration.
- **The proposal runs counter to California AB 617,** the Community Air Protection Program of 2017, which calls for the reduction of pollution in California's most vulnerable communities.

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<sup>6</sup> <https://deohs.washington.edu/hsm-blog/measuring-seatac-air-traffic-pollution>

<sup>7</sup> <https://pubs.acs.org/doi/full/10.1021/es5001566>

<sup>8</sup> <https://richmondpulse.org/2020/07/17/oakland-airport-flight-path-could-go-over-heart-of-richmond/>



In light of what we perceive to be the FAA's failings in these areas, we urge the FAA to immediately:

1. Conduct a meaningful public outreach and engagement process to inform impacted residents.
2. Describe the type of environmental analysis that will be carried out to analyze the impacts of the modification.
3. Address concerns on whether the proposed changes will affect communities that have historically suffered the most from environmental injustice.

We are grateful for your attention to this issue and look forward to your response.

Sincerely,

[Mayor of Berkeley and Members of the City Council]

# FAA Briefing to Oakland Airport Noise Forum – NextGen Technical Subcommittee

Supplemental Information to  
May 28, 2020 Briefing



Federal Aviation  
Administration

# Purpose of this Briefing

- **Provide an update on HUSSH SID IFP Gateway request**
- **Explain the need to modify the current WND SR STAR**
- **Explain the Air Traffic constraints in the area as they relate to the current WND SR STAR and the proposed modifications**



# Purpose of this Briefing

- **To show relationships between:**
  - Current WNDSR2 STAR
  - Proposed change to WNDSR STAR as designed by the FAA Performance Based Navigation Full Working Group
  - Proposed change to WNDSR STAR with input from Oakland Airport
  - OAK Arrival tracks from the northwest, both pre- and post- WNDSR STAR implementation
    - Pre-WNDSR Arrivals limited to those that filed the RAIDR STAR
- **Next steps**



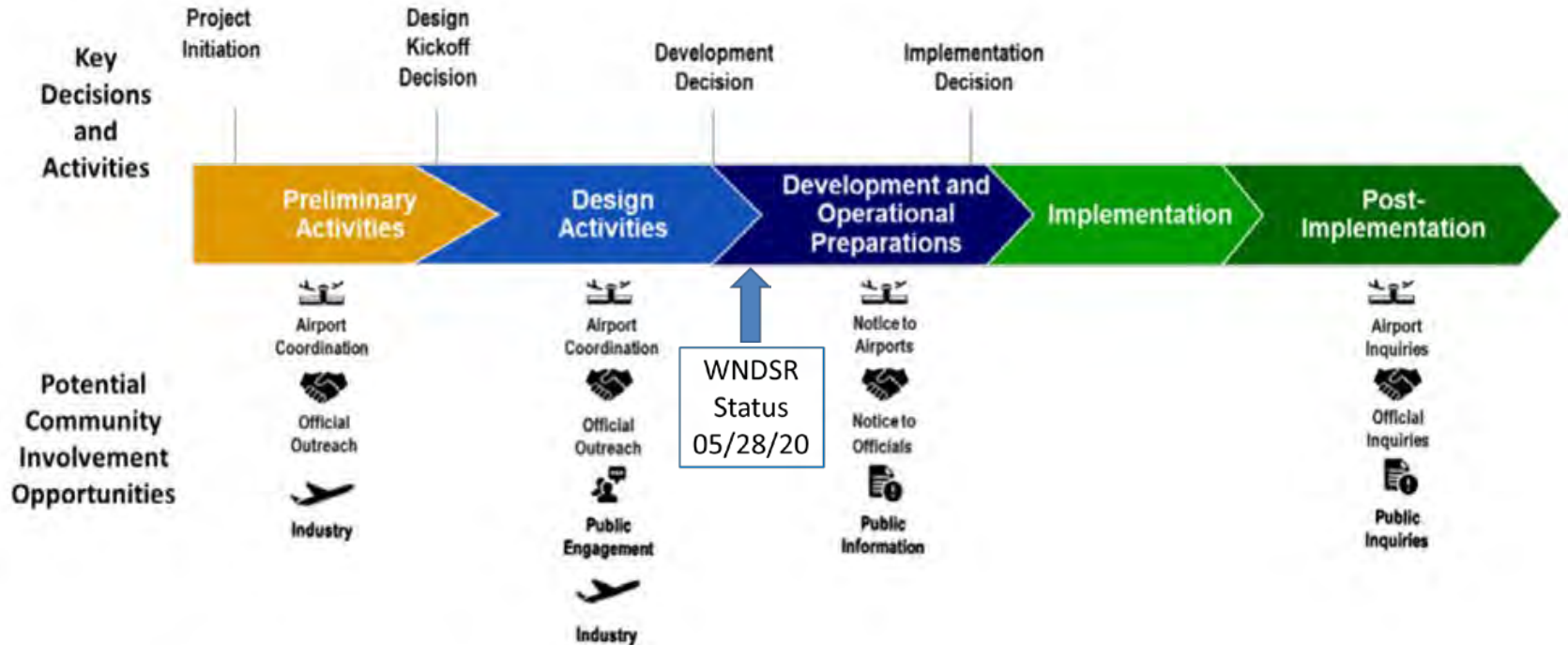
# HUSSH SID IFP Gateway request

- **An Instrument Flight Procedures Gateway request, to amend the initial altitude on the HUSSH SID from OAK, was submitted by the Oakland Airport on 10/16/2019**
- **The request is in the PBN 7100.41 process and is currently awaiting decision by the Flight Procedure Prioritization Team**



# Performance Based Navigation Process Timeline

Public Engagement may include briefings to roundtables, elected local, state, or federal officials and workshops, videos or webinars.



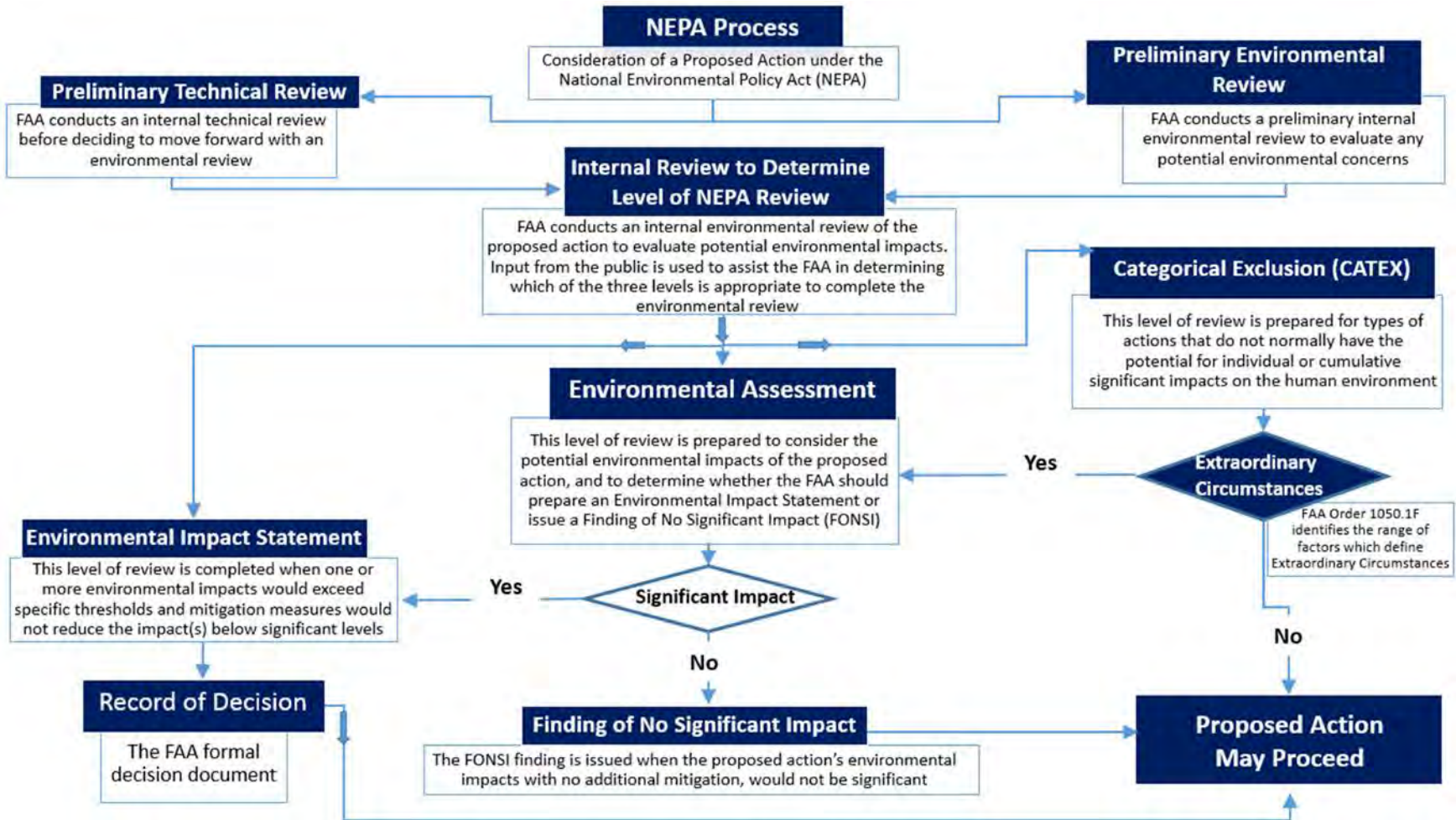
*Note: The need for and level of engagement will vary based on project circumstances*

The environmental review for procedures developed in this process occurs as a final step to the design activities.





# This chart shows the environmental steps the FAA would follow if the agency develops any of the conceptual changes. Non-finalized procedures generally do not start this process until finalized.



# Need for modifying the WND SR STAR

- **Within days of the publication of the WND SR STAR, Oakland ARTCC and NorCal TRACON realized the new WND SR STAR, being shifted to the North/Northeast, did not provide the separation from departures that the previous RAIDR STAR did.**





# Need for modifying the WND SR STAR

- **While very similar, the new WND SR STAR, in conjunction with other procedures implemented at the time, reduced the ability for controllers to more dynamically establish OAK arrivals on the downwind for runway 30**
- **This often keeps departures from SFO and OAK below the arrival stream over the Richmond area**
  - Arrivals may need to level off and increase thrust and/or departures may need to slow climb and remain at a lower altitude



# **Air Traffic Constraints with Respect to the current WNDSTAR STAR**

- **Napa County Airport Departures and Arrivals**
- **Travis Air Force Base Airspace**
- **Some SFO and OAK departures currently pass under arrivals, unable to climb until clear**
- **Higher terrain to the east**
- **SFO and OAK arrivals from the east/southeast**

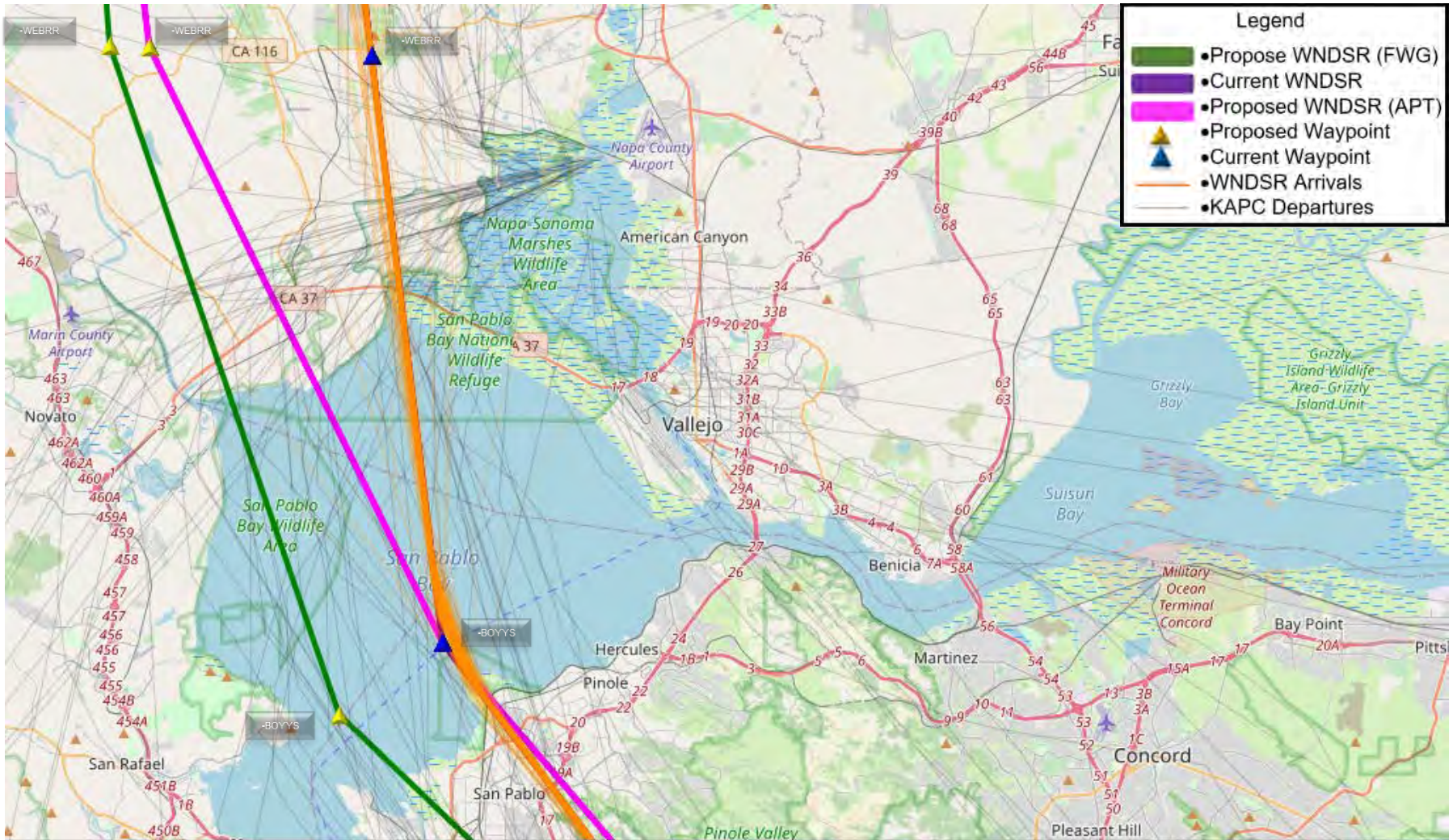


# Air Traffic Constraints with Respect to the current WND STAR - Napa

- **Confliction with Napa County Airport (KAPC) traffic between WEBER and BOYYS waypoints**

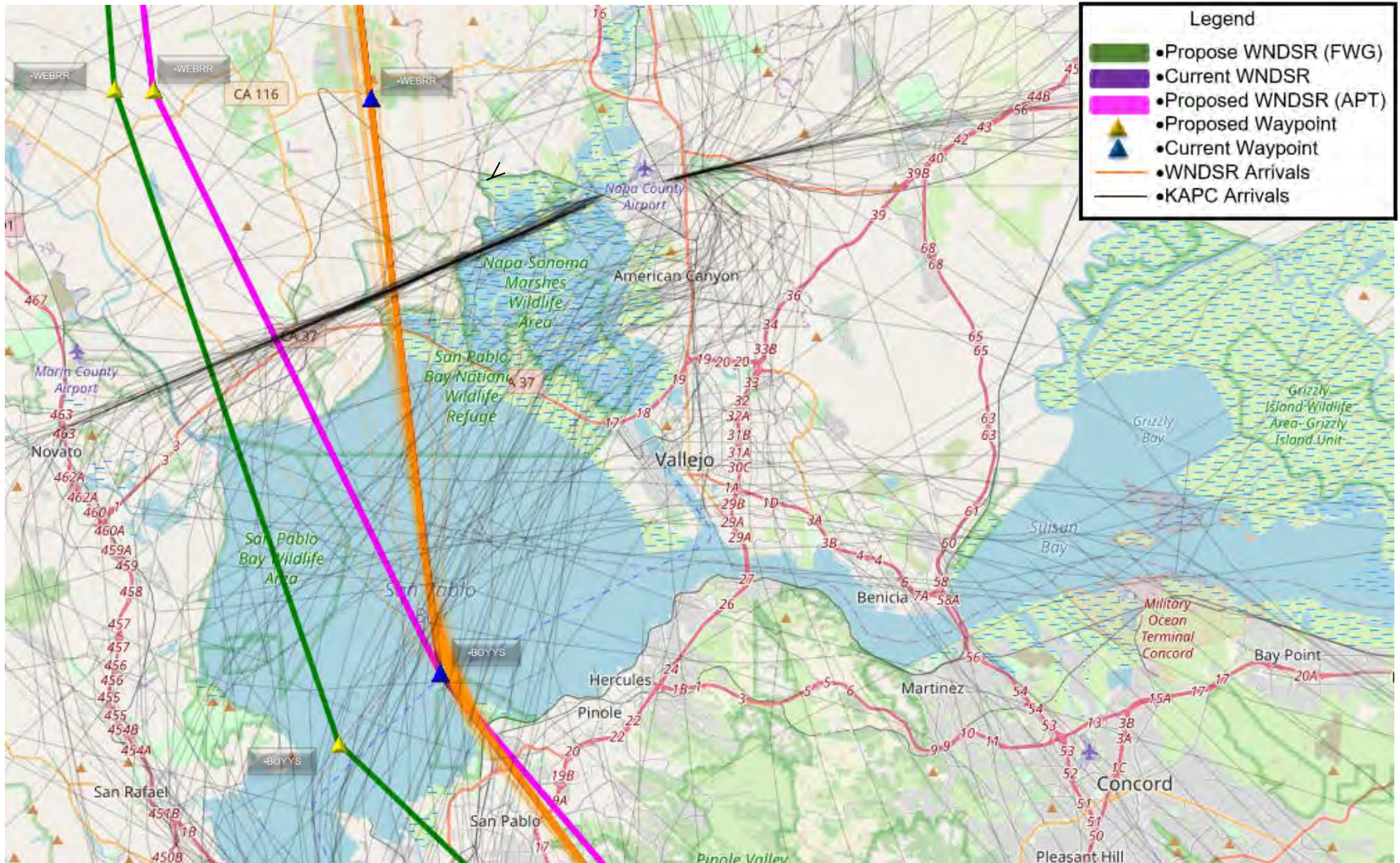


# KAPC Departures



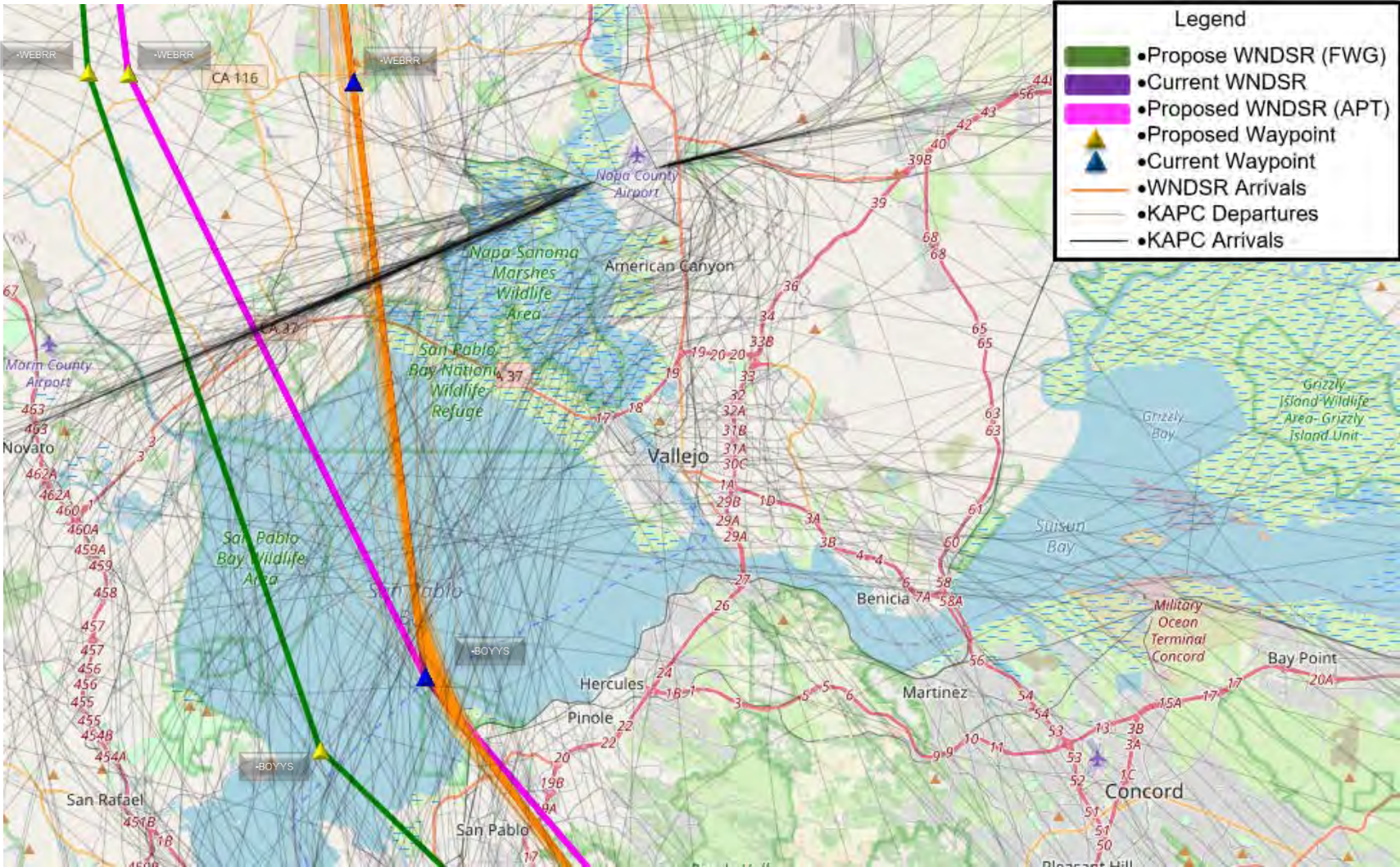


# KAPC Arrivals





# KAPC Departures/Arrivals



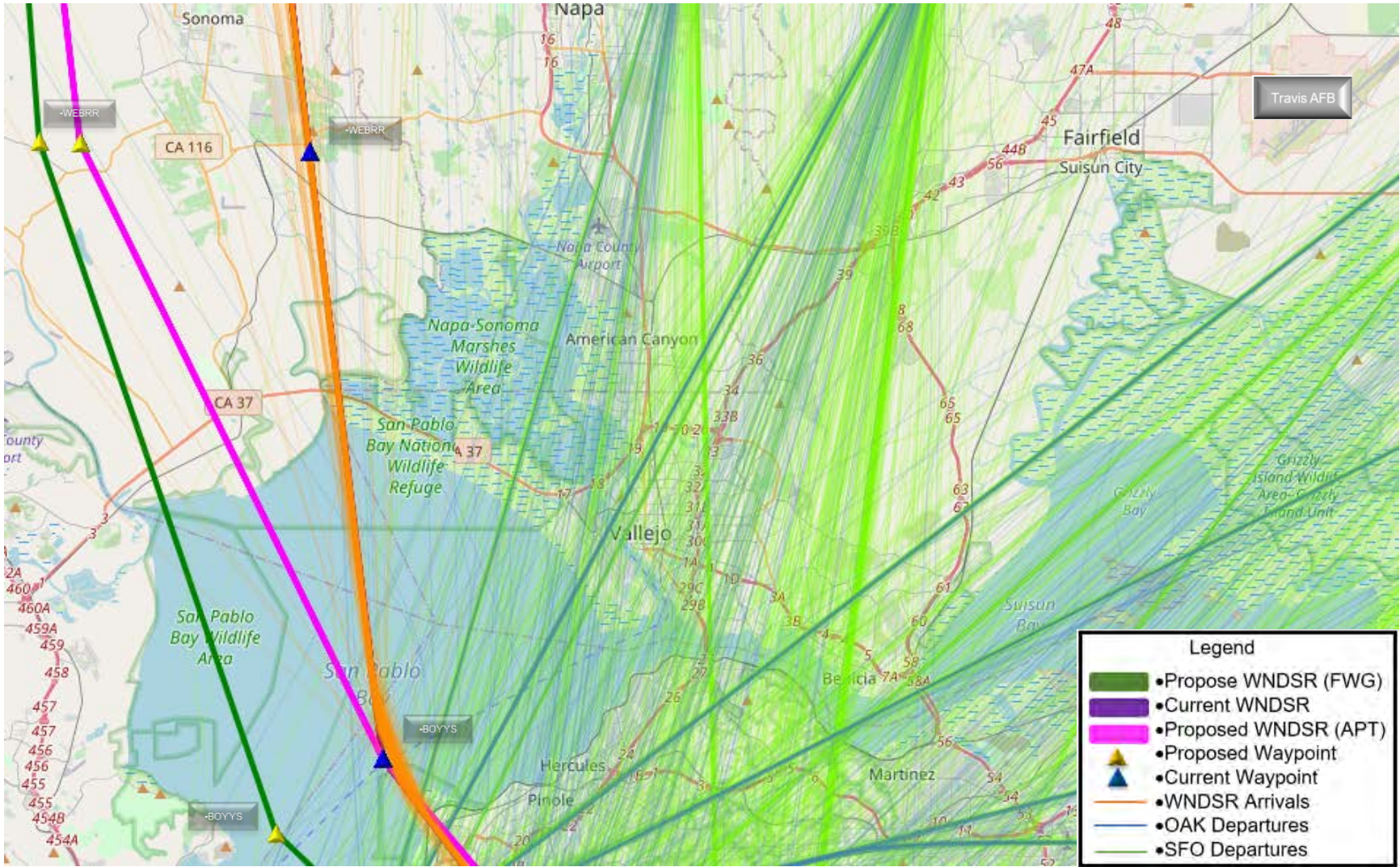
# Air Traffic Constraints with Respect to the current WNDSR STAR – Travis Air Force Base

- **Proximity of BOYYS to HOPTA segment to Travis Air Force Base (AFB) airspace**
  - Route cannot be moved further east without encroaching on AFB airspace and potentially requiring individual coordination for each arrival
  - OAK and SFO departures must be at or above 11,000 prior to the Travis AFB airspace





# Travis Air Force Base



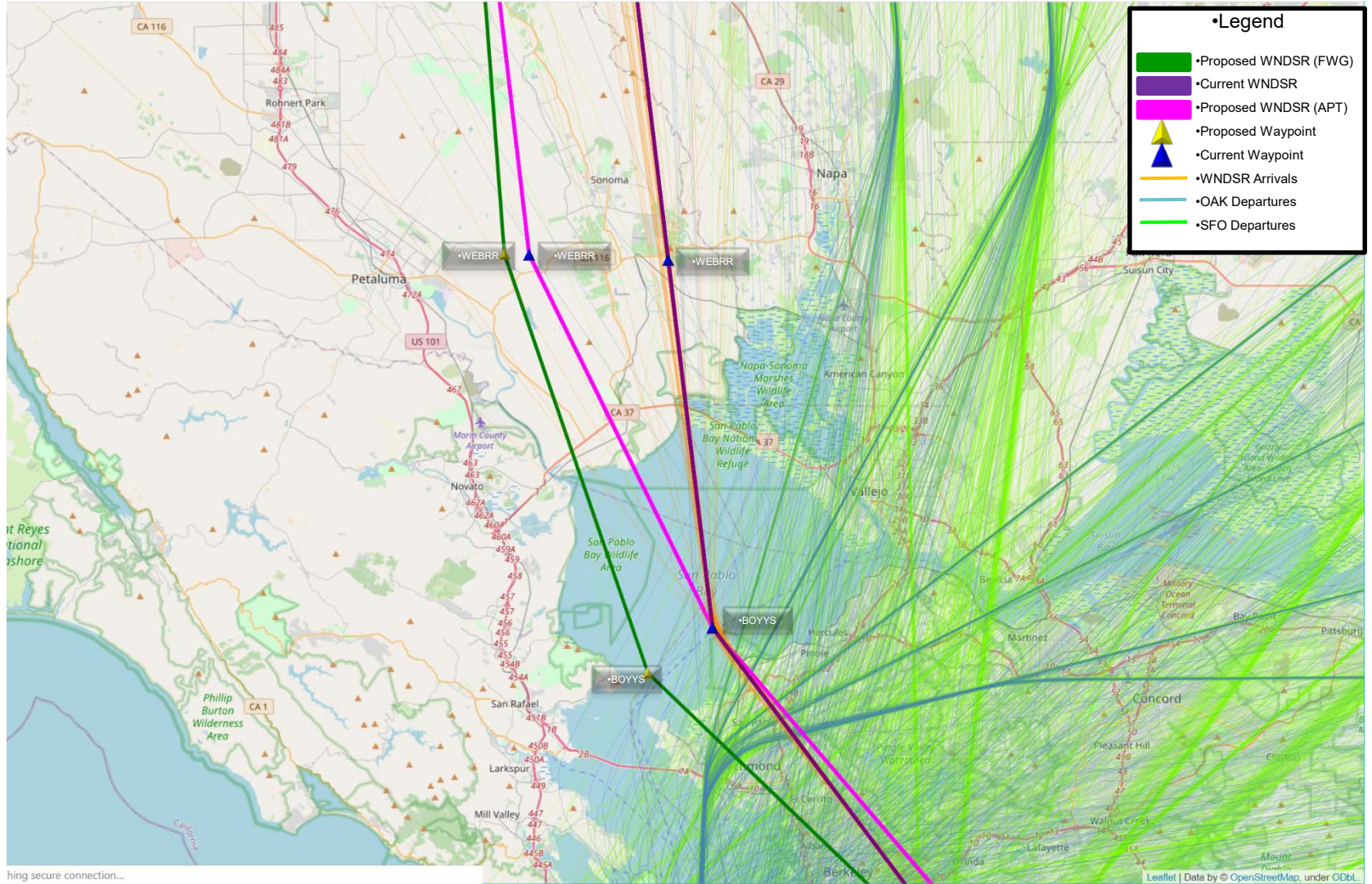


# **Air Traffic Constraints with Respect to the current WNDSR STAR – OAK/SFO Departures**

- **Major crossing point with OAK and SFO departures over the Richmond area**
- **Current design often requires level-offs for departures and/or arrivals**
- **Departures need to continue climbing to reach 11,000 to avoid Travis AFB**
- **Departures currently passing below arrivals are able to climb sooner with BOYYS moved west**



# SFO/OAK Dept toward Napa



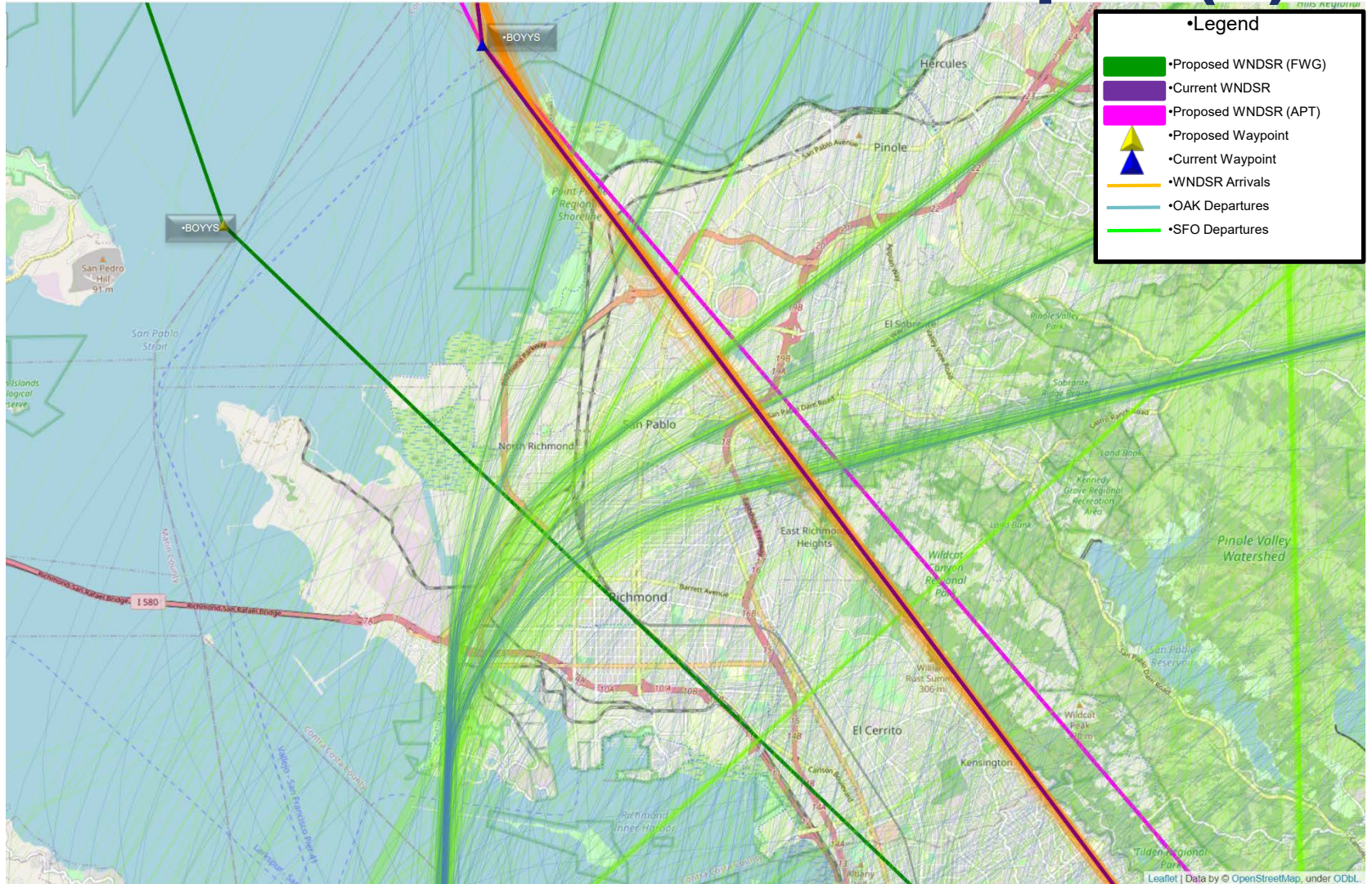
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Leaflet | Data by © OpenStreetMap, under ODbL



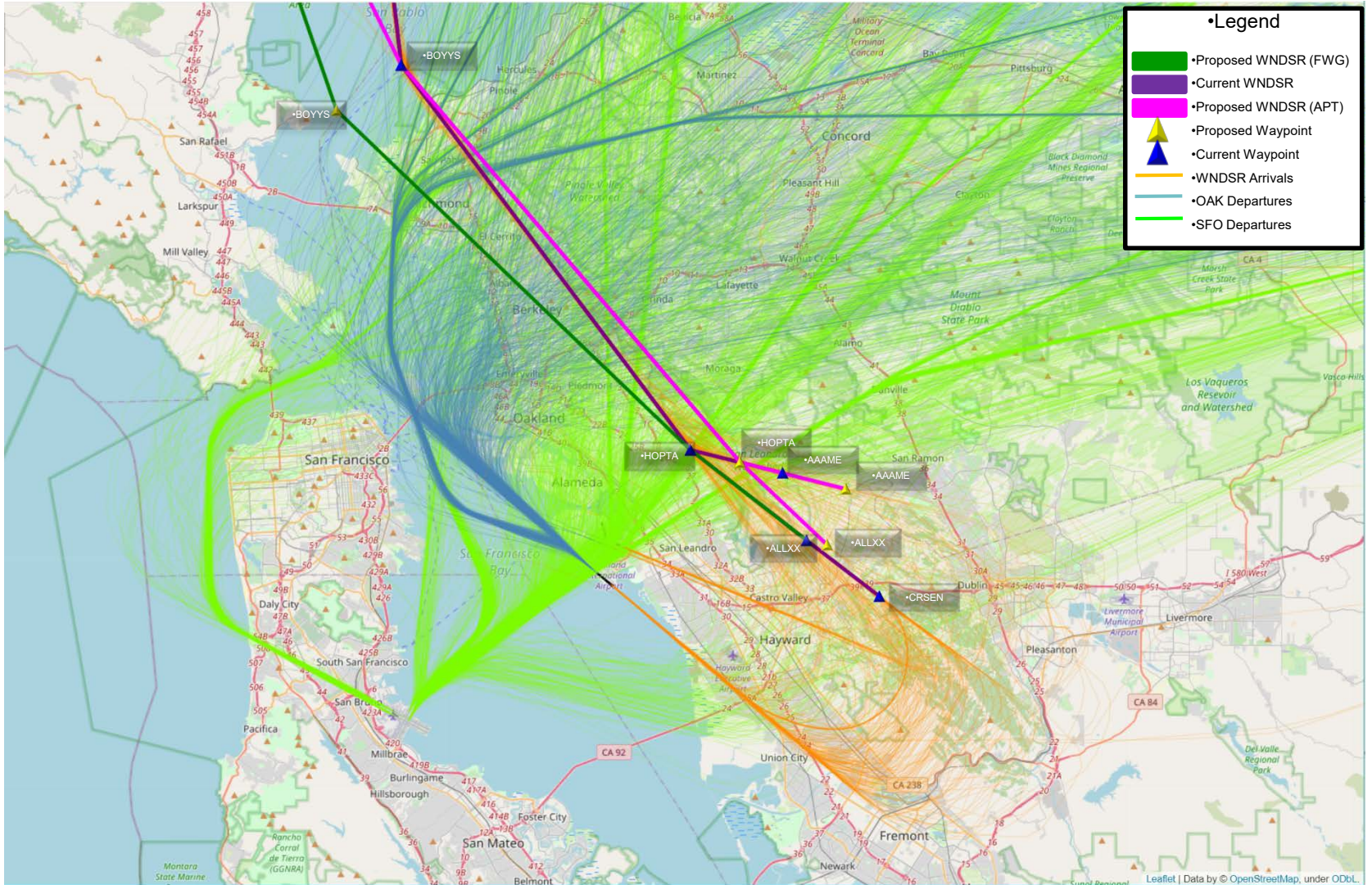


# WNDSR - SFO & OAK Depts (1)



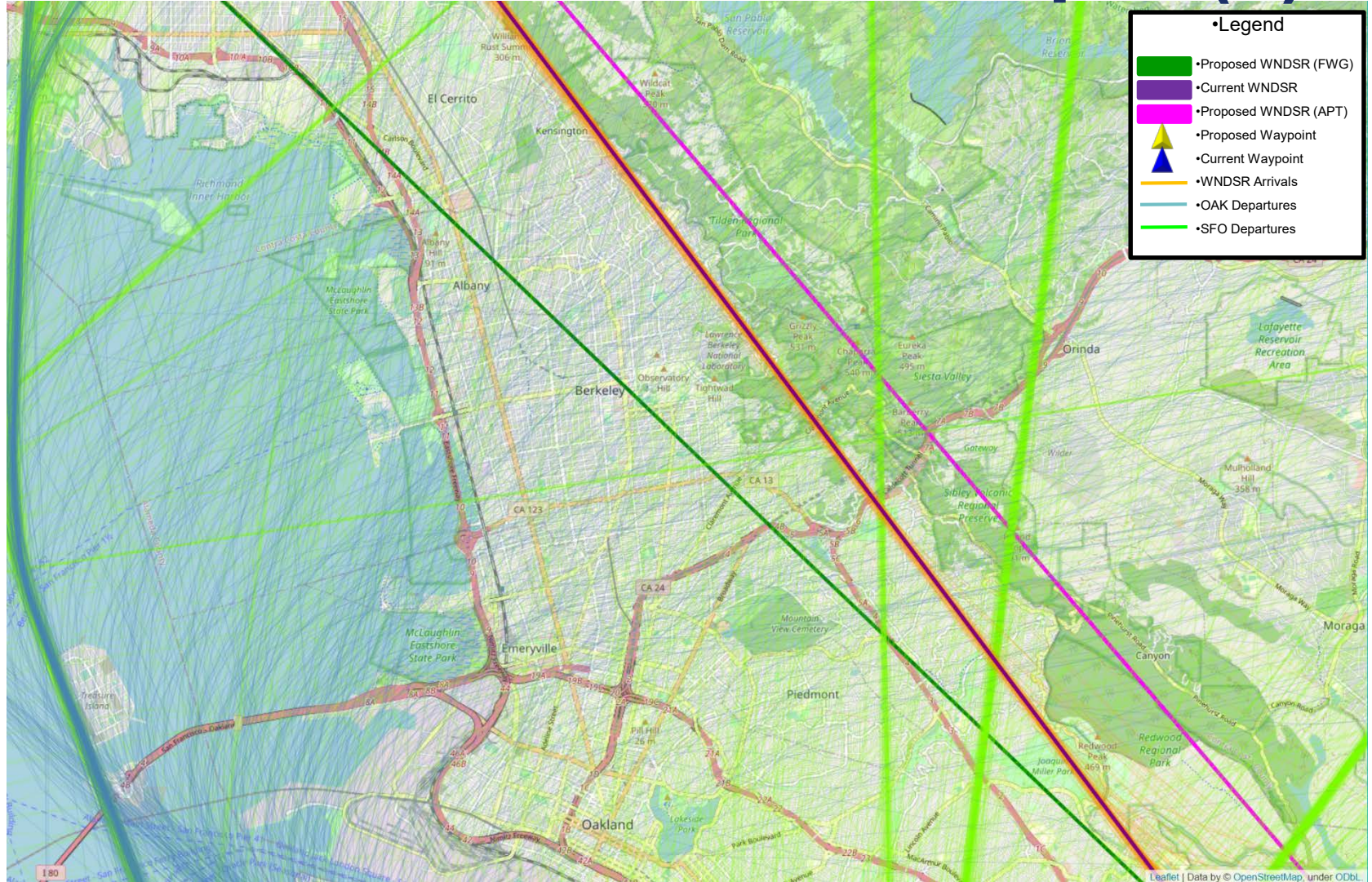


# WNDSR - SFO & OAK Depts (2)





# WNDSR - SFO & OAK Depts (3)



# Air Traffic Constraints with Respect to the current WNDSR STAR – Terrain to the East

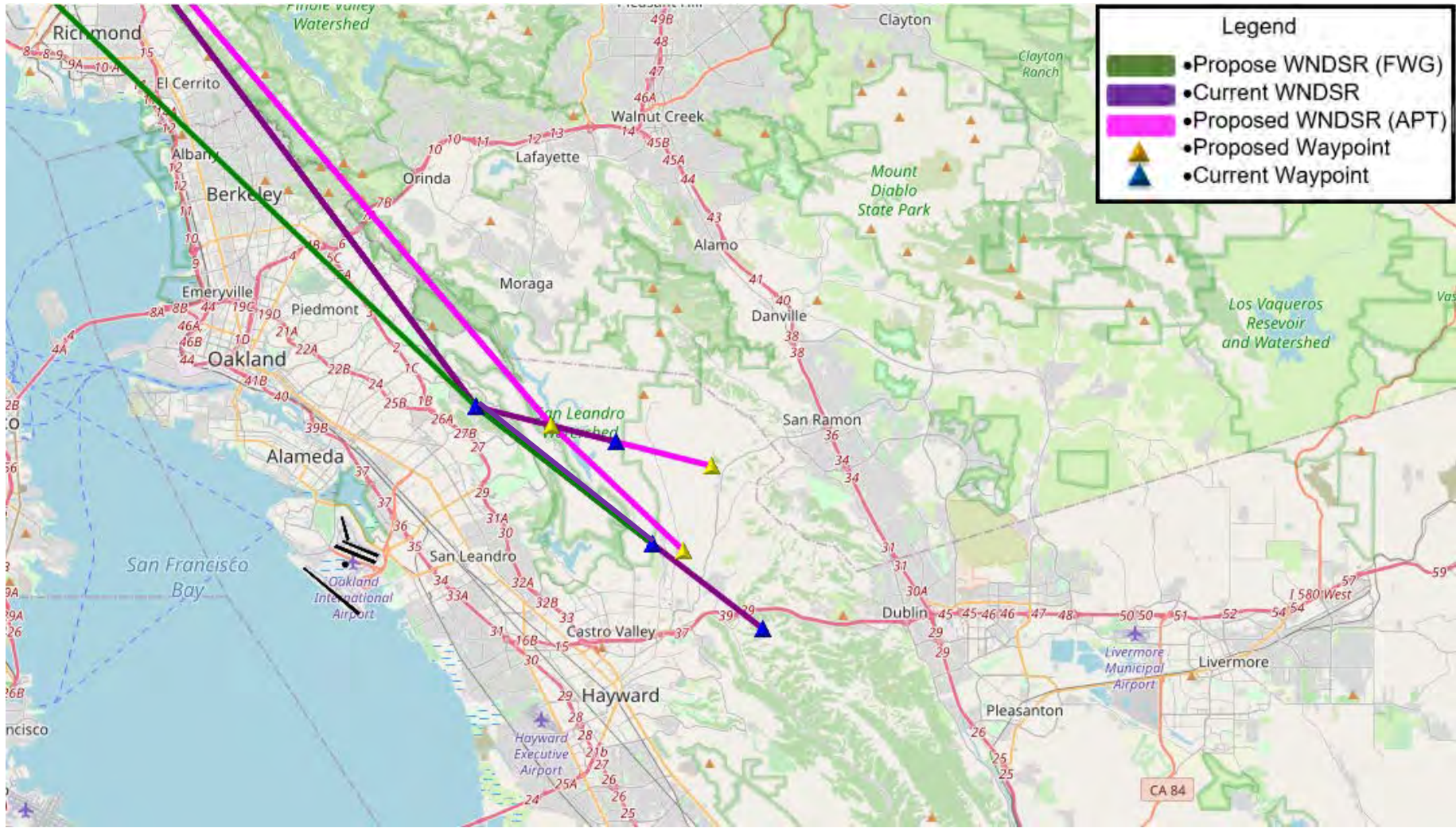
- **Terrain**

- As the terrain is higher to the east, this also increases the altitude aircraft are required to fly while on the STAR. Given the same location on a downwind in relation to the airport, a higher altitude requires a longer downwind and final approach segment to maintain the same level of approach stability.
- This also creates a conflict with Hayward Executive Airport departures, as it often causes them to be “trapped” between a descending OAK arrival and the rising terrain.



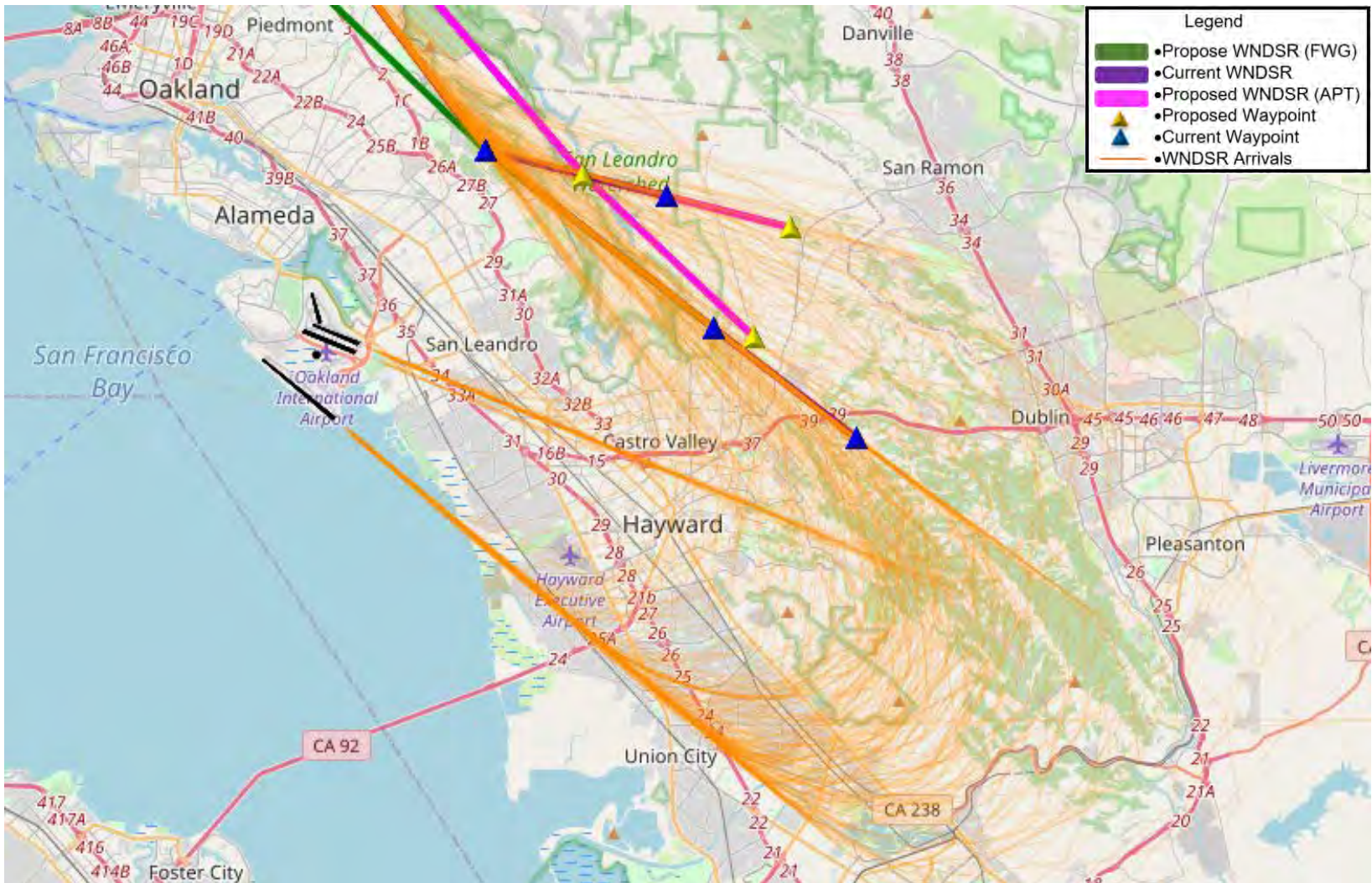


# Constraint of Terrain





# Constraint of Terrain



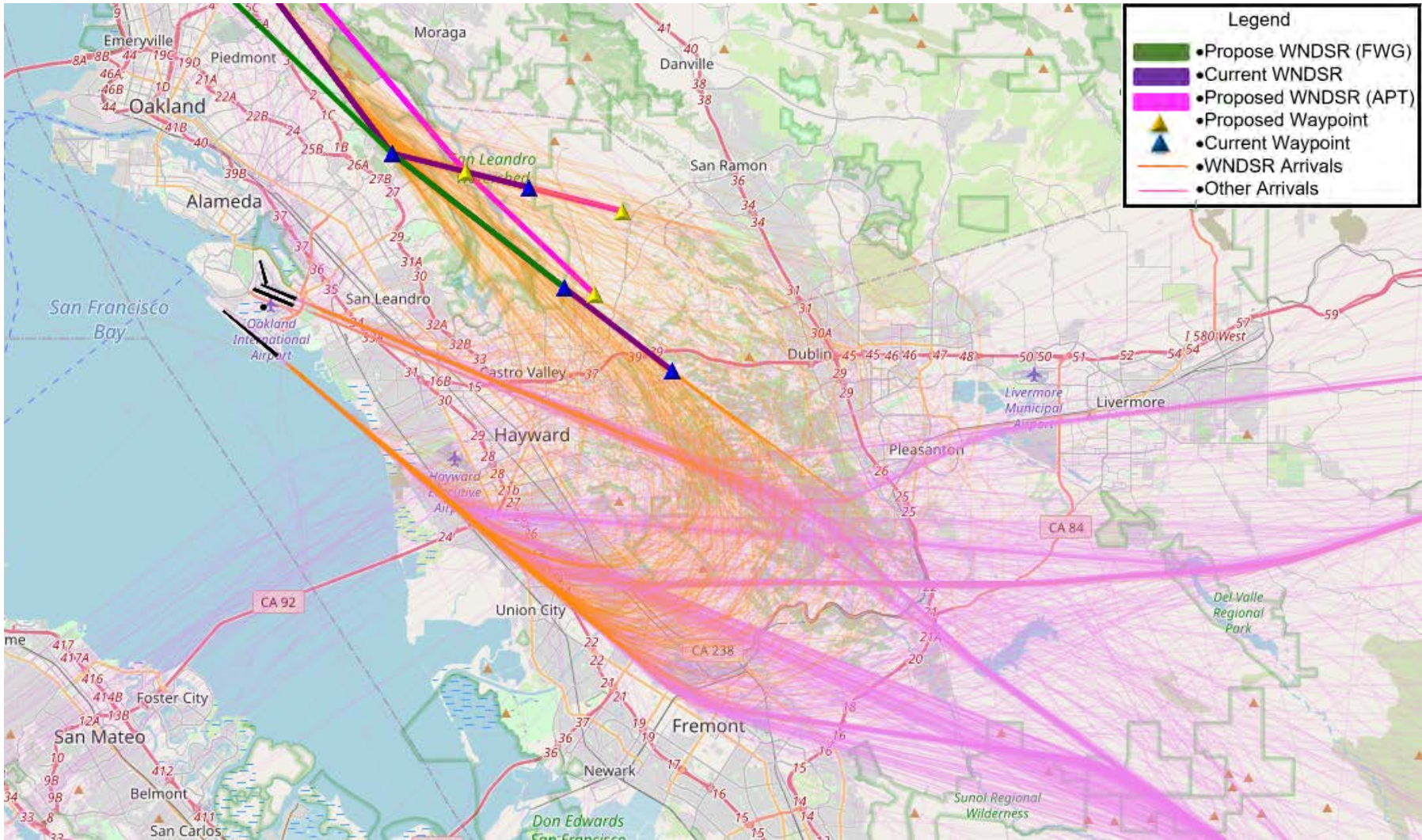


# Air Traffic Constraints with Respect to the current WNDSR STAR – Other Arrivals

- **Sequencing with other arrivals**
  - If moved further east, the change in the intercept angle between the WNDSR and OAKES/EMZOH STARS creates increasing complexity when sequencing arrival aircraft



# SFO & OAK arrivals from E/SE



# Next Steps

- **This briefing was designed to show the latest design for the proposed WND SR STAR amendment, as well as the status of the HUSSH SID amendment request.**
- **While there has been an operational need to modify the WND SR for many years, including several air traffic safety reports, the FAA remains committed to working with the Subcommittee and Forum in addressing aircraft noise based issues in the area.**



# Next Steps

- **The FAA will continue collaboration with the Subcommittee and Forum, even after potential publication of the WNSDR STAR, as briefed.**



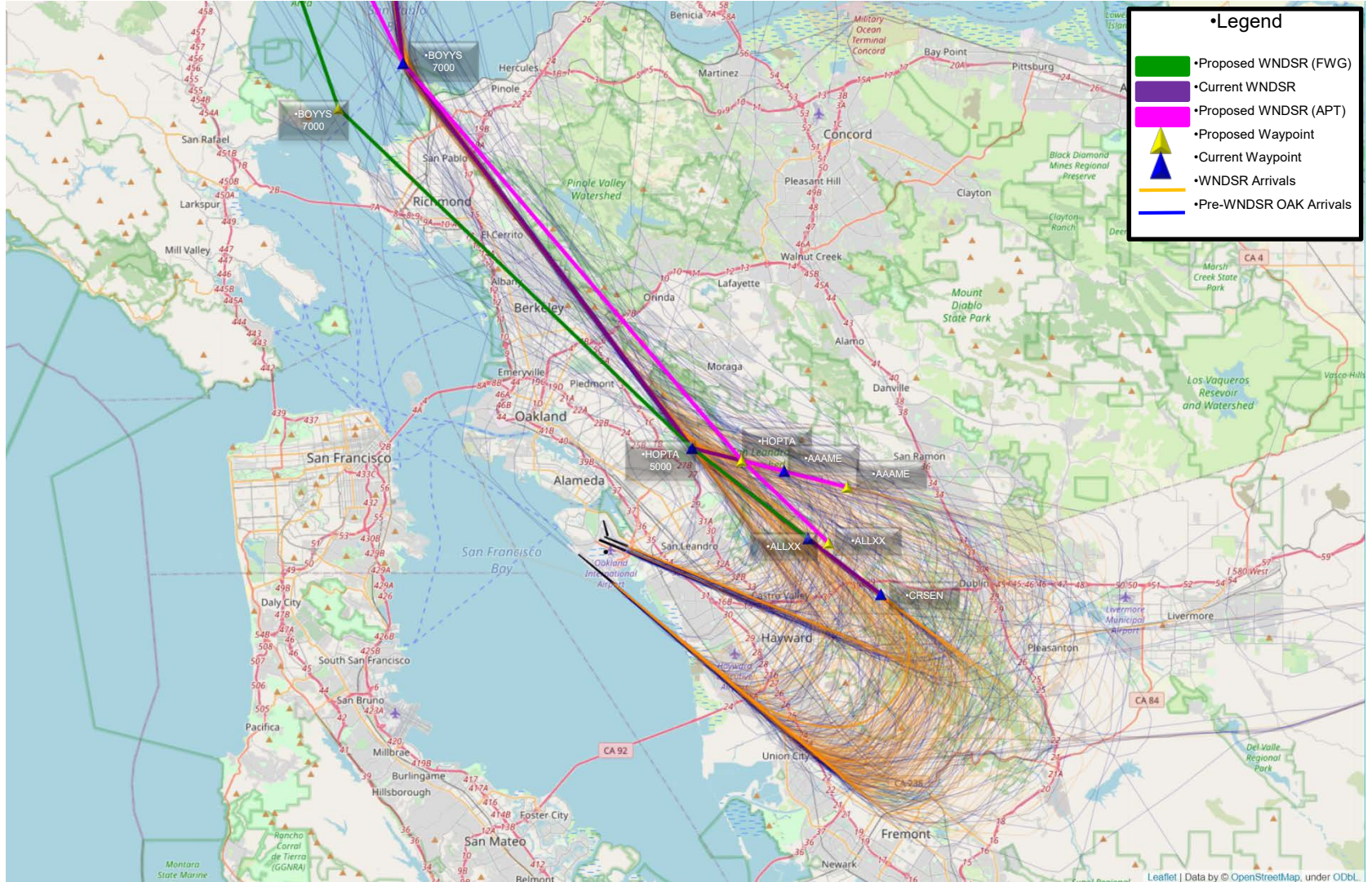
# Data used

- **Pre-WNDSR OAK Arrivals**
  - May 20, 2015 – August 7, 2015
    - More tracks were used to better represent aircraft arriving via the RAIDR STAR
- **All other track categories**
  - August 1 – 7, 2019



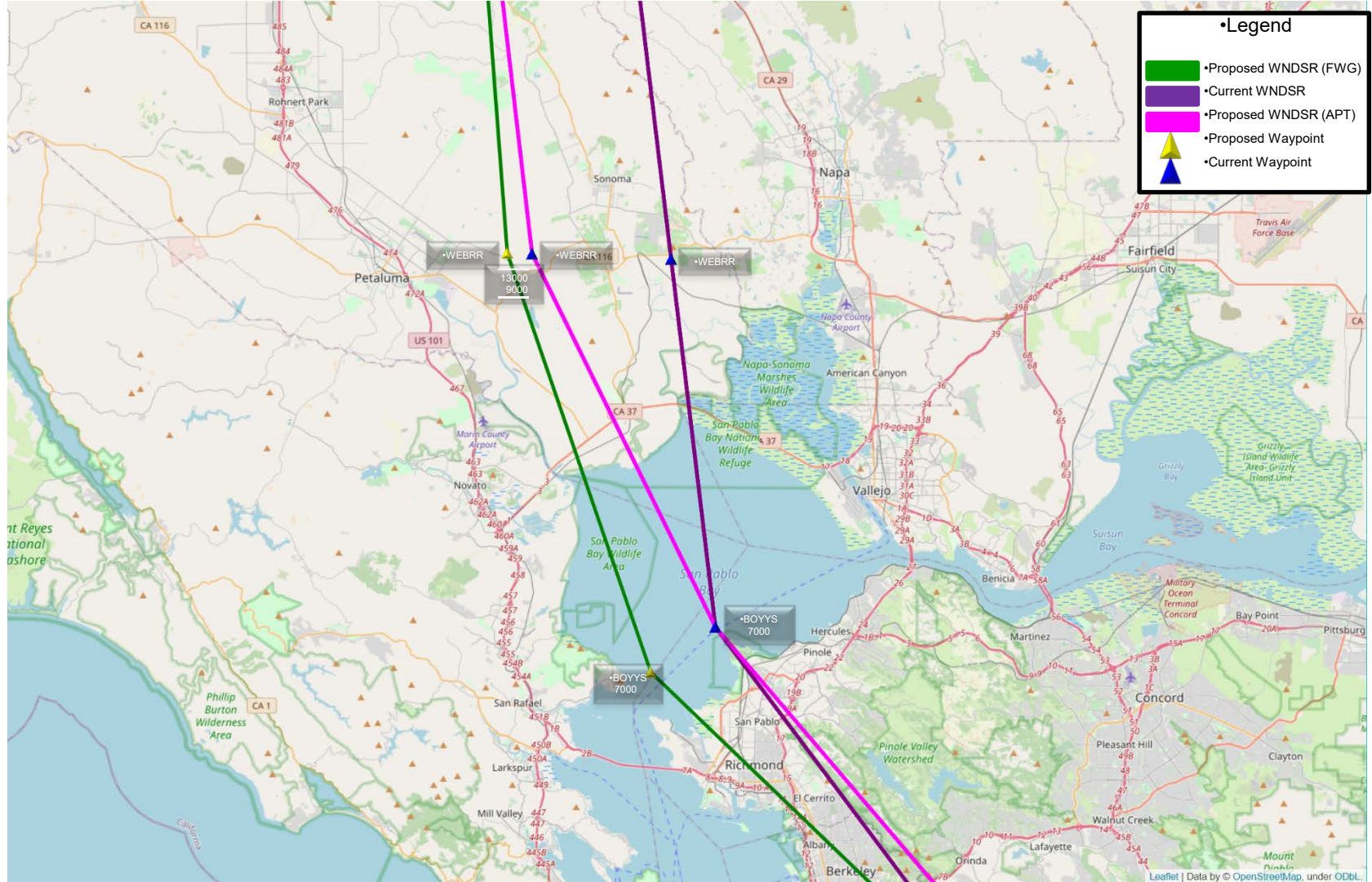


# WNDSR & Pre-WNDSR Arrivals



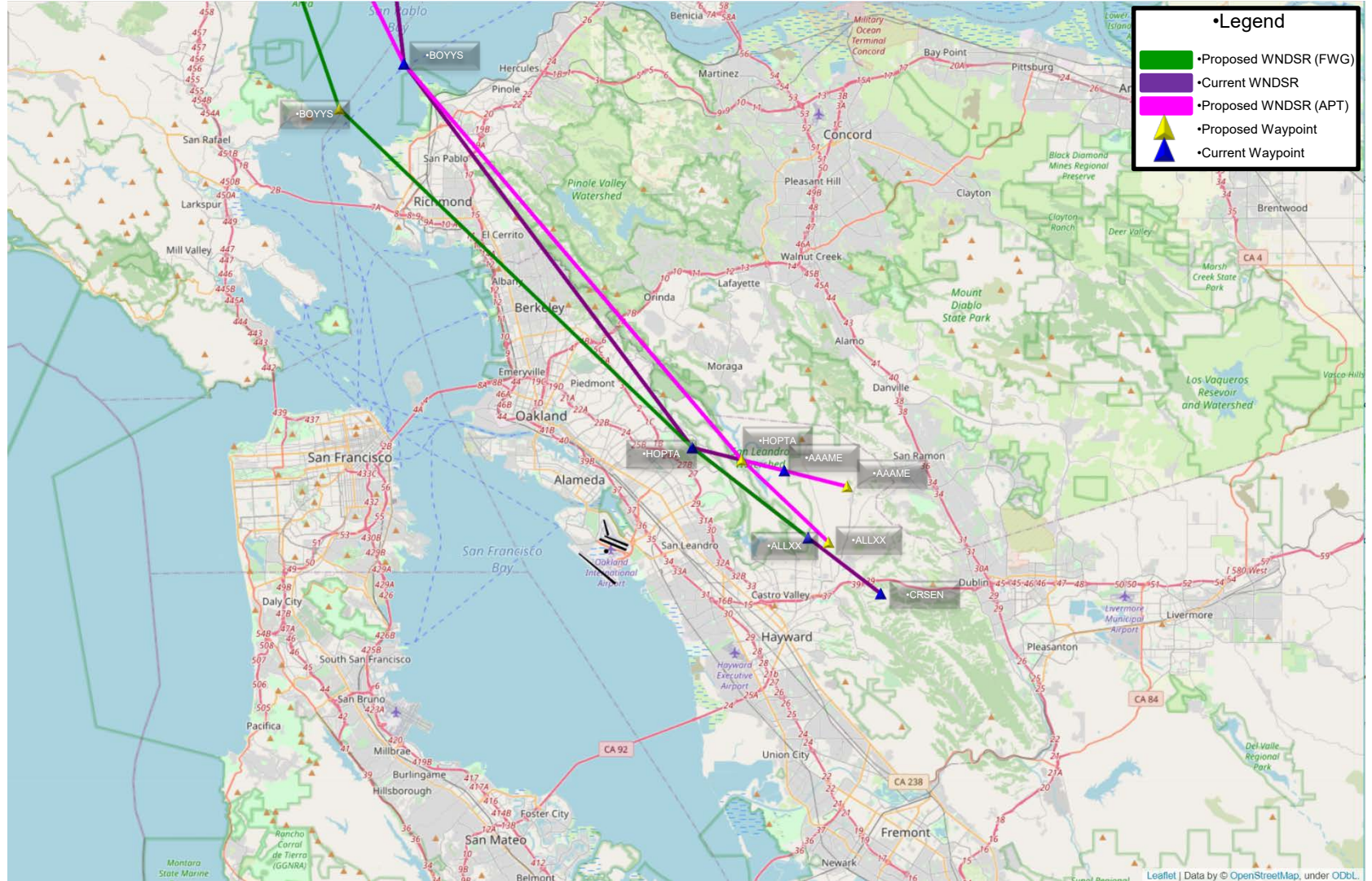


# WEBRR to BOYYS





# BOYYS to HOPTA, ALLXX





# Richmond speaks out against proposed flight path over city

The Richmond Standard, July 16, 2020



Image credit: Oakland Airport-Community Noise Management Forum

By Mike Kinney

The Richmond community is speaking out over a proposed change in a flight path into Oakland International Airport that will increase air traffic and noise in the city.

The Federal Aviation Administration (FAA) aims to shift an existing flight path that travels over the eastern edge of West Contra Costa cities two miles west to an area with nearly double the population in Richmond, El Cerrito and Berkeley. The change could happen in October 2021; the decision is not yet final, according to the FAA.

**“It seems low-income people and existing disadvantaged communities are going to be impacted the most with these new proposals,”** Richmond Deputy City Manager Shasha Curl said during the Oakland Airport-Community Noise Management Forum meeting Wednesday.

She was joined by Mayor Tom Butt and Contra Costa County Supervisor John Gioia in calling for public outreach and review of the plan.

**“Richmond has not been thoughtfully engaged,”** Curl said.

The proposal to shift the flight path is about safety, according to the FAA. In 2015, the FAA adopted a new WNDSR arrival route to replace the conventional RAIDR procedure. That shifted flight tracks to the north/northeast compared to the previous RAIDR, a spokesperson for the FAA said.

**“Shortly after we published the WNDSR, we realized it did not provide the same separation from Oakland departures that the previous RAIDR arrival route did, and a fix was needed,”** the FAA spokesperson said. **“The FAA began designing a proposed amendment to the WNDSR route in 2017.”**

Shifting flights west would keep aircraft on the arrival route safely separated from Oakland departures, according to the FAA.

Last year, the Oakland Noise Forum requested that the FAA evaluate a smaller shift to the east of the current flight path to take advantage of open space between Berkeley/Piedmont/Montclair and Orinda/Moraga.

**That proposal isn’t feasible, according to the FAA, “due to a number of factors related to the density and complexity of the local airspace.”** Terrain is higher to the east, the agency said.

**“Additionally, shifting the route east would create a conflict with Hayward Executive Airport departures; increase the complexity in sequencing and spacing involving other Oakland arrivals, San Francisco departures and Napa**

County Airport traffic; and would encroach on Travis Air Force Base airspace,” according to the FAA.

**At Wednesday’s Noise Forum**, Richmond leaders and community members asked the FAA to reconsider. Gioia said the flight path proposal should be examined as an equity issue, with an analysis of the air quality and noise pollution impacts.

**Added Richmond Mayor Tom Butt, “This is an environmental justice issue and adding noise pollution to other pollution sources already affecting Richmond is just not right. The flight path could be shifted a half a mile west and follow the Bay and affecting almost no one.”**

The FAA said it has not completed the environmental review for the proposed change, nor made a final decision, and added it would “continue to work through the Oakland Noise Forum on appropriate community engagement for the proposal.”

**Congress of the United States**  
**Washington, DC 20515**

January 25, 2021

The Honorable Steve Dickson  
Administrator  
Federal Aviation Administration  
800 Independence Ave, SW  
Washington, DC 20591

**RE: Proposed NextGen Modifications to the Northern California Metroplex**

Dear Administrator Dickson:

We are writing in regard to the Federal Aviation Administration's (FAA's) intention to make additional Air Traffic Control (ATC) modifications to the Northern California Metroplex, with particular respect to procedures related to the Oakland International Airport (OAK). We understand that the most recently described modifications to the WND SR Area Navigation (RNAV) procedure could impact the path of certain flights arriving to OAK from the north.

The Port of Oakland notified our offices that since the introduction of the NextGen program in the San Francisco Bay Area in 2015, OAK and other airports throughout the region have received a significant increase in noise-related complaints from our constituents, primarily because of the increased concentration of aircraft activity along certain arrival and departure routes.

OAK leadership and stakeholders affiliated with the Oakland Airport/Community Noise Management Forum ("Noise Forum") were recently notified of the FAA's intention to implement a modification to the WND SR Standard Terminal Arrival route into OAK. This proposed procedure would apparently shift flights from their current course along the East Bay hills and move them westward to a course that overflies a denser population situated among certain unincorporated areas of West Contra Costa County and the cities of Richmond, El Cerrito, Albany, and Berkeley, among other impacted areas.

The presentation by FAA representatives and discussions on the proposed changes during the July and October 2020 OAK Noise Forum meetings have generated concerns from our constituents. Primarily, it does not appear that the FAA is conducting a meaningful public outreach and engagement process to inform potentially impacted residents of this proposed change. Additionally, FAA staff have been unable to clearly detail the type of environmental analysis that will be conducted to analyze the impacts of this modification and whether any direct outreach to impacted stakeholders will be initiated as part of that environmental review. In addition, we have concerns about how the proposed changes will affect communities that historically have suffered from environmental injustices – including higher levels of air and noise pollution.

The FAA Reauthorization Act of 2018 directed the FAA to enhance the Agency's community engagement practices related to airplane noise impacts on communities. We respectfully request that you provide us with information on your agency's efforts related to this matter, that they be consistent with both the spirit and the letter of the Reauthorization Act, and that they include a direct line of communication between our constituents and the FAA about this proposed change. Finally, we ask that you keep our offices informed with any further FAA decisions related to this flight route modification.

Thank you for taking the time to consider our thoughts on this matter. We look forward to your response.

Sincerely,



Barbara Lee  
Barbara Lee  
Member of Congress



Mark DeSaulnier  
Mark DeSaulnier  
Member of Congress

cc: Raquel Girvin, FAA Western-Pacific Regional Administrator  
Bryant L. Francis, Director of Aviation, Port of Oakland  
Oakland Airport/Community Noise Management Forum Members





Kate Harrison  
Councilmember District 4

CONSENT CALENDAR  
April 20, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmembers Harrison (Author), Robinson (Author), and Bartlett (Co-Sponsor)

Subject: Resolution in Support of Senate Bill 271, the Sheriff Democracy and Diversity Act, to Allow for More Diverse and Democratic Sheriff Elections

RECOMMENDATION

Adopt a resolution in support of Senate Bill 271, the Sheriff Democracy and Diversity act, to allow for more diverse and democratic Sheriff elections.

Send copies of the resolution to Governor Newsom and State Senator Scott Wiener.

BACKGROUND

Sheriffs in California are constitutionally elected officials that exercise great authority in their respective County jurisdictions. All 58 counties in California have a Sheriff's department, and 41 counties provide for the Sheriff to assume the role of Coroner. The Sheriff has three primary duties: keep the peace, attend to the courts, and operate the county jail. Generally, the Sheriff has six functional operations: patrol, detention, civil, court services, records, coroner, administrative, and investigative.

Prior to 1988, the California constitution required no special qualifications to run for the office of Sheriff. After former prisoner rights' attorney Michael Hennessey was elected to Sheriff of San Francisco county, the California State Sheriff's Association successfully lobbied for a bill that restricted candidates to those with current and former law enforcement experience, codified at Government Code Section 24004.3. As a result, the pool of candidates grew smaller and many Sheriffs are unopposed when seeking reelection. In 2014, only 19 of the 58 counties in California had a contested race for the office of Sheriff, and in 2021, forty-nine of the sitting Sheriffs are white males, which does not reflect the demographics of the diverse constituents most Sheriffs represent.<sup>1</sup>

San Francisco Sheriff Michael Hennessey enacted many successful reform and anti-recidivism programs and was reelected seven times, becoming widely respected and the longest tenured Sheriff in California history. Meanwhile ongoing protests against

<sup>1</sup> <https://theappeal.org/politicalreport/california-overturn-sheriff-requirements/>

police brutality have called for elected officials to “reimagine public safety,” by shifting some duties away from armed officers to unarmed civilians and social workers.

Several counties including Los Angeles, Santa Clara, and San Diego have created civilian oversight boards due to reports of horrific conditions in their jails, and misconduct by their Sheriff’s department. In *Dibb v. County of San Diego* (1994), the California Supreme Court upheld the authority to create such boards.

However, the restrictions limiting candidates to those with law enforcement experience has resulted in Sheriffs that are generally not well suited to reimagining public safety, as they lack de-escalation training, rehabilitative and restorative justice backgrounds, and mental health crisis intervention training as these are typically not provided by police and sheriff’s training academies. Sheriffs in counties with larger populations manage thousands of employees, most of which are unarmed civilian employees. Such employees outnumber armed sworn employees in each of the 58 California counties.

Across California, Sheriffs have enacted policies that run contrary to the values of most Californians, prompting calls for structural reform:

- Sheriffs in California formally opposed the sanctuary protections provided by SB 54 (California Values Act) enacted into law in 2018, and many continue to cooperate with Immigrations and Customs Enforcement (ICE).<sup>2</sup>
- In July 2017, a woman gave birth alone while confined to solitary confinement at Santa Rita Jail, despite screaming for hours for medical attention. Alameda County and Sheriff Ahern are now the subject of a federal civil rights lawsuit.<sup>3</sup>
- After paying \$149 million in just five years due to civil rights violations, sexual assault, excessive force, and killings, and due to resisting oversight and reform efforts, in 2020 the Board of Supervisors for the County of Los Angeles voted to explore removing Sheriff Villanueva and making the office of Sheriff an appointed position.<sup>4</sup>
- In 2017 Alameda County Sheriff Ahern invited The Oath Keepers to participate in his Urban Shield SWAT training and equipment exposition and allowed them to distribute propaganda. Members of The Oath Keepers have since been investigated and/or arrested by the FBI for participating in the January 6, 2021 Capitol Riot.<sup>5</sup>
- Sheriffs have resisted calls to release or socially distance inmates and employees suffering from Covid-19 outbreaks in their respective jails, even as

<sup>2</sup> <https://www.latimes.com/california/story/2020-10-08/ice-sanctuary-policies-arrest-san-diego>

<sup>3</sup> <https://www.eastbaytimes.com/2018/08/21/woman-who-gave-birth-alone-in-alameda-county-jail-screaming-for-hours-sues-county/>

<sup>4</sup> <https://www.latimes.com/california/story/2020-11-10/supervisors-seek-sheriff-removal-options>

<sup>5</sup> [https://www.washingtonpost.com/national-security/oath-keeper-three-percenter-arrests/2021/01/17/27e726f2-5847-11eb-a08b-f1381ef3d207\\_story.html](https://www.washingtonpost.com/national-security/oath-keeper-three-percenter-arrests/2021/01/17/27e726f2-5847-11eb-a08b-f1381ef3d207_story.html)



their own staff began to suffer the negative health consequences of the coronavirus, including death<sup>6</sup>. San Diego Sheriff Gore's response to the crisis has been to prioritize privatization of the county jail's health care services, which could eliminate 350 county employee positions.<sup>7</sup>

- An independent internal San Diego County review found that a woman was left alone to die, after striking her head in jail. According to records cited by the San Diego Union-Tribune, more than 150 people have died in custody in San Diego County jails since Sheriff Gore took office. The Union-Tribune also reported that San Diego County has the highest jail mortality rate of the state's six most populous counties.<sup>8</sup>
- In January 2021, California Attorney General Becerra launched an investigation into the Los Angeles County Sheriff's department for "pattern and practice" civil rights violations.<sup>9</sup>

Only thirteen states including California require that candidates seeking the office of Sheriff have prior law enforcement experience in order to run. Senator Wiener, along with colleagues Senator Skinner, Assembly Member McCarty, Assembly Member Kalra, Assembly Member Lee, Assembly Member Wicks, and Assembly Member Ting, has introduced Senate Bill 271 ("The Sheriff Diversity and Democracy Act") to return California to its original constitutional language for candidates seeking the office of County Sheriff, which if enacted would no longer require law enforcement experience to seek the office of Sheriff.

It is in the public interest that the Berkeley City Council express its support for the passage and implementation of Senate Bill 271.

#### FISCAL IMPACTS OF RECOMMENDATION

Clerk time is necessary to send letter.

#### ENVIRONMENTAL SUSTAINABILITY

Reforming Sheriff election rules could help strengthen the resilience of communities in the face of climate and environmental disasters.

#### CONTACT PERSON

Kate Harrison, Berkeley City Councilmember, (510) 981-7140

#### ATTACHMENTS

<sup>6</sup> <https://www.kpbs.org/news/2020/dec/22/covid-19-cases-surge-san-diego-jails-detention/>

<sup>7</sup> <https://www.sandiegouniontribune.com/news/watchdog/story/2020-11-16/new-covid-19-outbreak-forces-transfer-of-dozens-of-county-jail-inmates>

<sup>8</sup> <https://www.sandiegouniontribune.com/news/watchdog/story/2021-02-07/woman-left-alone-to-die-after-striking-her-head-while-collapsing-in-jail-independent-review-finds?fbclid=IwAR2XsvDnrtj91GSv1ih1Yd5zN5tGhrqfIWKPdUIMUhyE0r8KUASg9vSmSEQ>

<sup>9</sup> <https://ktla.com/news/local-news/california-ag-launches-civil-rights-investigation-into-l-a-county-sheriffs-department/>

1. Resolution
2. Letter

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

RESOLUTION IN SUPPORT OF SENATE BILL 271, THE SHERIFF DEMOCRACY AND DIVERSITY ACT, TO ALLOW FOR MORE DIVERSE AND DEMOCRATIC SHERIFF ELECTIONS

Whereas, Sheriffs in California are constitutionally elected officials that exercise great authority in their respective County jurisdictions. All 58 counties in California have a Sheriff's department, and 41 counties provide for the Sheriff to assume the role of Coroner. The Sheriff has three primary duties: keep the peace, attend to the courts, and operate the county jail. Generally, the Sheriff has six functional operations: patrol, detention, civil, court services, records, coroner, administrative, and investigative; and

Whereas, prior to 1988, the California constitution required no special qualifications to run for the office of Sheriff. After former prisoner rights' attorney Michael Hennessey was elected to Sheriff of San Francisco county, the California State Sheriff's Association successfully lobbied for a bill that restricted candidates to those with current and former law enforcement experience, codified at Government Code Section 24004.3. As a result, the pool of candidates grew smaller and many Sheriffs are unopposed when seeking reelection. In 2014, only 19 of the 58 counties in California had a contested race for the office of Sheriff, and in 2021, forty-nine of the sitting Sheriffs are white males, which does not reflect the demographics of the diverse constituents most Sheriffs represent<sup>1</sup>; and

Whereas, San Francisco Sheriff Michael Hennessey enacted many successful reform and anti-recidivism programs and was reelected seven times, becoming widely respected and the longest tenured Sheriff in California history; and

Whereas, protests against police brutality have called for elected officials to "reimagine public safety", by shifting some duties away from armed officers to unarmed civilians and social workers; and

Whereas, several counties including Los Angeles, Santa Clara, and San Diego have created civilian oversight boards due to reports of horrific conditions in their jails, and misconduct by their Sheriff's department. In Dibb v. County of San Diego (1994), the California Supreme Court upheld the authority to create such boards; and

Whereas, the restrictions limiting candidates to those with law enforcement experience has resulted in Sheriffs that are generally not well suited to reimagining public safety, as they lack de-escalation training, rehabilitative and restorative justice backgrounds, and

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<sup>1</sup> <https://theappeal.org/politicalreport/california-overturn-sheriff-requirements/>

mental health crisis intervention training as these are typically not provided by police and sheriff's training academies; and

Whereas, Sheriffs in counties with larger populations manage thousands of employees, most of which are unarmed civilian employees. Such employees outnumber armed sworn employees in each of the 58 California counties; and

Whereas, Sheriffs in California formally opposed the sanctuary protections provided by SB 54 (California Values Act) enacted into law in 2018, and many continue to cooperate with Immigrations and Customs Enforcement (ICE)<sup>2</sup>; and

Whereas, in 2017 Alameda County Sheriff Ahern invited The Oath Keepers to participate in his Urban Shield "war games" and allowed them to distribute propaganda. Members of The Oath Keepers have since been investigated and/or arrested by the FBI for participating in the January 6, 2021 Capitol riot challenging the certification of President Joe Biden's election results<sup>3</sup>; and

Whereas, in July 2017, a woman gave birth alone while confined to solitary confinement at Santa Rita Jail, despite screaming for hours for medical attention. Alameda County and Sheriff Ahern are now the subject of a federal civil rights lawsuit<sup>4</sup>; and

Whereas, after paying \$149 million in just five years due to civil rights violations, sexual assault, excessive force, and killings, and due to resisting oversight and reform efforts, in 2020 the Board of Supervisors for the County of Los Angeles voted to explore removing Sheriff Villanueva and making the office of Sheriff an appointed position<sup>5</sup>; and

Whereas, Sheriffs have resisted calls to release or socially distance inmates and employees suffering from Covid-19 outbreaks in their respective jails, even as their own staff began to suffer the negative health consequences of the coronavirus, including death<sup>6</sup>. San Diego Sheriff Gore's response to the crisis has been to prioritize privatization of the county jail's health care services, which could eliminate 350 county employee positions<sup>7</sup>; and

Whereas, an independent internal San Diego County review found that a woman was left alone to die, after striking her head in jail. According to records cited by the San

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<sup>2</sup> <https://www.latimes.com/california/story/2020-10-08/ice-sanctuary-policies-arrest-san-diego>

<sup>3</sup> [https://www.washingtonpost.com/national-security/oath-keeper-three-percenter-arrests/2021/01/17/27e726f2-5847-11eb-a08b-f1381ef3d207\\_story.html](https://www.washingtonpost.com/national-security/oath-keeper-three-percenter-arrests/2021/01/17/27e726f2-5847-11eb-a08b-f1381ef3d207_story.html)

<sup>4</sup> <https://www.eastbaytimes.com/2018/08/21/woman-who-gave-birth-alone-in-alameda-county-jail-screaming-for-hours-sues-county/>

<sup>5</sup> <https://www.latimes.com/california/story/2020-11-10/supervisors-seek-sheriff-removal-options>

<sup>6</sup> <https://www.kpbs.org/news/2020/dec/22/covid-19-cases-surge-san-diego-jails-detention/>

<sup>7</sup> <https://www.sandiegouniontribune.com/news/watchdog/story/2020-11-16/new-covid-19-outbreak-forces-transfer-of-dozens-of-county-jail-inmates>

Diego Union-Tribune, more than 150 people have died in custody in San Diego County jails since Sheriff Gore took office. The Union-Tribune also reported that San Diego County has the highest jail mortality rate of the state's six most populous counties<sup>8</sup>; and

Whereas, in January 2021, California Attorney General Becerra launched an investigation into the Los Angeles County Sheriff's department for "pattern and practice" civil rights violations<sup>9</sup>;

Whereas, only thirteen states including California require that candidates seeking the office of Sheriff have prior law enforcement experience in order to run;

Whereas, Senator Wiener, along with colleagues Senator Skinner, Assembly Member McCarty, Assembly Member Kalra, Assembly Member Lee, Assembly Member Wicks, and Assembly Member Ting, has introduced Senate Bill 271 ("The Sheriff Diversity and Democracy Act") to return California to its original constitutional language for candidates seeking the office of County Sheriff, which if enacted would no longer require law enforcement experience to seek the office of Sheriff.

NOW, THEREFORE BE IT RESOLVED, the City Council of Berkeley expresses its support for Senate Bill 271 (Wiener), and the California legislature to pass and Governor Gavin Newsom to sign into law Senate Bill 271.

BE IT FURTHER RESOLVED, that copies of this Resolution will be sent to Governor Newsom and the Office of California Senator Wiener, along with a copy of the letters referenced below.

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<sup>8</sup> <https://www.sandiegouniontribune.com/news/watchdog/story/2021-02-07/woman-left-alone-to-die-after-striking-her-head-while-collapsing-in-jail-independent-review-finds?fbclid=IwAR2XsvDnrj91GSv1ih1Yd5zN5tGhrgfIWKPdUIMUhyE0r8KUASg9vSmSEQ>

<sup>9</sup> <https://ktla.com/news/local-news/california-ag-launches-civil-rights-investigation-into-l-a-county-sheriffs-department/>

The Honorable Gavin Newsom  
Governor, State of California  
1303 10th Street, Suite 1173  
Sacramento, CA 95814

**Re: Support for Senate Bill 271, the Sheriff Democracy and Diversity Act, to Allow for More Diverse and Democratic Sheriff Elections**

Dear Governor Newsom:

The Berkeley City Council would like to convey its urgent support for your support for Senate Bill 271, the Sheriff Democracy and Diversity Act, to allow for more diverse and democratic Sheriff elections.

Only thirteen states including California require that candidates seeking the office of Sheriff have prior law enforcement experience in order to run. SB 271 would return California to its original constitutional language for candidates seeking the office of County Sheriff, which would no longer require law enforcement experience to seek the office of Sheriff.

Ongoing protests against police brutality have called for elected officials to “reimagine public safety,” by shifting some duties away from armed officers to unarmed civilians and social workers.

To date, unnecessary restrictions have reduced the pool of candidates for Sheriff and today most Sheriffs are unopposed when seeking reelection. In 2014, only 19 of the 58 counties in California had a contested race for the office of Sheriff, and in 2021, forty-nine of the sitting Sheriffs are white males, which does not reflect the demographics of the diverse constituents most Sheriffs represent.

Thank you for your leadership and consideration.

Sincerely,

The Berkeley City Council

The Honorable Scott Wiener  
State Capitol  
Room 5100  
Sacramento, CA 95814-4900

**Re: Support for Senate Bill 271, the Sheriff Democracy and Diversity Act, to Allow for More Diverse and Democratic Sheriff Elections**

Dear State Senator Wiener:

The Berkeley City Council would like to convey its urgent support for your support for Senate Bill 271, the Sheriff Democracy and Diversity Act, to allow for more diverse and democratic Sheriff elections.

Thank you for your leadership on this important issue.

Sincerely,

The Berkeley City Council







Kate Harrison  
Councilmember District 4

CONSENT CALENDAR

April 20, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Harrison

Subject: Support for AB 1199: Homes for Families and Corporate Monopoly Transparency Excise Tax

RECOMMENDATION

Adopt a resolution proclaiming support for AB 1199, including support for the legislation in the 2020-2021 State Legislative Program, and sending copies of a letter to Assemblymember Mike Gipson, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Assembly Bill 1199, which would create a database of rental properties, levy a tax on the rental profits of some people or entities holding many properties, and use the funds to support services for tenants and small landlords.

BACKGROUND

This bill, AB 1199, consists of two main parts. First, it creates a reporting requirement and a database for certain property owners. Specifically, AB 1199 would:

- Require any person or entity, not including qualified non-profit organizations, that owns rental property to report annually to the Secretary of State.
- Require the Secretary of State to create a searchable database, updated annually, with the information collected through AB 1199.

The information collected by AB 1199 would include both the identity of the beneficial owner of each property and the number of units at each property that were offered for rent or lease. This portion is similar to the database created by Berkeley's Measure MM, which collects more information about rental properties.

Next, with this information collected, the State would be able to collect a tax and place the receipts in a fund. This is the "Homes for Families and Corporate Monopoly

Transparency Excise Tax Law” section of the bill. Here AB 1199 would:

- Impose an unspecified annual excise tax upon any person, LLC, or LP, owning 10 or more units of rental housing with some exclusions, including income-restricted affordable housing units.
- Create a Homes for Families Fund that would receive the taxes collected from AB 1199.

The percentage amount of the tax is currently blank in the most recent form of AB 1199. The new “Homes for Families Fund” would be charged with supporting:

- Rental assistance and relief for tenants,
- Tenant legal services,
- Services and programs for persons experiencing homelessness,
- Protection of existing housing,
- Production of new affordable housing,
- Housing counseling services for tenants, and
- Landlords that own fewer than 10 properties and have lost rental income from tenants due to COVID-19

It is in the public interest for the City of Berkeley to support Assembly Bill 1199 because this legislation will provide a database of statewide information that will inform local discussions of the housing market as the City revisits the housing element over the next few years and for discussions of housing policy in the future.

Additionally, this new tax to support various programs to support tenants and small landlords is in line with Berkeley values. Berkeley voters have a long history of supporting tenant protections and low-income housing, including the passing of Measures O and P to levy new taxes in support of the construction of affordable housing and services for those experiencing homelessness as well as the recent passing of Measure MM, which has similar elements to AB 1199 in that it creates a database of rental properties.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental impacts associated with this action.

#### FISCAL IMPACTS OF RECOMMENDATION

Clerk time will be necessary to send the letters.

#### CONTACT PERSON

Councilmember Kate Harrison  
510-981-7140

Attachments:

1: Resolution

2: Letter

3: Bill text: [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220AB1199](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1199)

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

RESOLUTION IN SUPPORT OF AB 1199: HOMES FOR FAMILIES AND  
CORPORATE MONOPOLY TRANSPARENCY EXCISE TAX

WHEREAS, Assembly Bill 1199 (Gipson), The Homes for Families and Corporate Monopoly Transparency Excise Tax Law would create a database of rental properties, levy a tax on the rental profits of some people or entities holding many properties, and use the funds to support services for tenants and small landlords; and

WHEREAS, the voters of the City of Berkeley have supported similar local efforts to create a database of rental housing for the better understanding of the rental market to inform policy discussions and decisions with reliable data; and

WHEREAS, a better understanding of the housing stock dedicated to serving tenants will only aid in making important state-level policy decisions and conducting research,

WHEREAS, The City of Berkeley is increasingly concerned about the financialization of the housing market and the consolidation of rental properties to fewer and fewer owners, which is often in conflict with an understanding of housing as a human right, and,

WHEREAS, new programs will be needed to support tenants and small landlords long after the COVID State of Emergency is lifted, and

WHEREAS, dedicated funding streams for social support programs support their success;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of Berkeley proclaims its support for AB 1199 (Gipson).

BE IT FURTHER RESOLVED, that by the adoption of this Resolution, the City of Berkeley hereby includes in its 2020-2021 State Legislative Program SUPPORT for AB 1199 (Gipson), which would create a database of rental properties, levy a tax on the rental profits of some people or entities holding many properties, and use the funds to support services for tenants and small landlords.

BE IT FURTHER AND FINALLY RESOLVED that copies of this Resolution Clerk will be sent to Senator Nancy Skinner, Assemblymember Buffy Wicks, Assemblymember Gipson, whichever other legislative committees will be conducting hearings on the legislation, no later than the deadline for filing position letters to each committee.

April 20, 2021

The Honorable Mike Gipson  
Assemblymember, 64th District  
State Capitol, Room 3173  
Sacramento, CA 95814

**RE: City of Berkeley's Support for Assembly Bill 1199**

Dear Assemblymember Mike Gipson,

The Berkeley City Council would like to convey our full support for Assembly Bill 1199, which would make progress towards understanding the California rental market, creating a useful database for future research, and providing a source of funding to necessary programs for supporting tenants and small landlords.

Berkeley took similar steps when voters supported Measure MM last fall, requiring the registration of many rental units and allowing for a more informed discussion of the rental market while making important local policy decisions. The "Homes for Families Fund" would be another needed source of assistance not only for the many tenants who will continue to face the challenges of COVID long after the emergency is over, but also to the many small landlords who felt similar impacts from the pandemic.

The Berkeley City Council supports AB 1199 and thanks you for taking the lead on this important issue.

Sincerely,

The Berkeley City Council

CC: | Senator Nancy Skinner  
Assemblymember Buffy Wicks



## LEGISLATIVE INFORMATION

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AB-1199 Homes for Families and Corporate Monopoly Transparency Excise Tax: qualified property: reporting requirements. (2021-2022)

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Date Published: 02/18/2021 09:00 PM

### CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

## ASSEMBLY BILL

NO. 1199

Introduced by Assembly Member Gipson

February 18, 2021

An act to add Article 8 (commencing with Section 12280) to Chapter 3 of Part 2 of Division 3 of Title 2 of the Government Code, and to add Part 6.8 (commencing with Section 11951) to Division 2 of the Revenue and Taxation Code, relating to landlords, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1199, as introduced, Gipson. Homes for Families and Corporate Monopoly Transparency Excise Tax: qualified property: reporting requirements.

Existing law requires the Secretary of State to perform various duties relating to business entities.

This bill would require a qualified entity, as defined, that owns qualified property, as defined, to report annually to the Secretary of State specified information regarding the qualified property owned by the qualified entity. The bill would require the Secretary of State to create a searchable database, updated annually, on the Secretary of State's internet website, with the information provided by the qualified entity.

Existing law imposes various taxes, including taxes on the privilege of engaging in certain activities. The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.

This bill would impose an annual excise tax upon a qualified taxpayer, as defined, for the privilege of renting or leasing out qualified property, as defined, in this state at an unspecified rate based on the gross receipts of the qualified taxpayer that are derived from rental income. The bill would require the California Department of Tax

and Fee Administration to collect the tax pursuant to the Fee Collection Procedures Law and would require all amounts collected, less refunds and administrative costs, to be deposited in the Homes for Families Fund, which the bill would create. Upon appropriation, the bill would require that moneys in the fund be used for specified purposes relating to rental assistance, homelessness, affordable housing, and housing counseling services.

Because the bill would expand the scope of the Fee Collection Procedures Law, the violation of which is a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: yes

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Article 8 (commencing with Section 12280) is added to Chapter 3 of Part 2 of Division 3 of Title 2 of the Government Code, to read:

### **Article 8. Reporting Requirements for Qualified Entities**

**12280.** (a) On or before February 1, 2023, and on or before February 1 each year thereafter, a qualified entity that owns qualified property shall report the following information to the Secretary of State in the form and manner as required by the Secretary of State:

(1) The identity of the beneficial owner of each qualified property owned by the qualified entity in the previous calendar year.

(2) The number of units for each qualified property owned by the qualified entity in the previous calendar year that were offered for rent or lease.

(b) The Secretary of State shall create a searchable database, updated annually, on the Secretary of State's internet website, with the information provided by the qualified entity in subdivision (a).

(c) For purposes of this section, both of the following definitions shall apply:

(1) "Qualified entity" means a limited liability company or a limited partnership.

(2) "Qualified property" has the same meaning as that term is defined in Section 11952 of the Revenue and Taxation Code.

**SEC. 2.** Part 6.8 (commencing with Section 11951) is added to Division 2 of the Revenue and Taxation Code, to read:

### **PART 6.8. Homes for Families and Corporate Monopoly Transparency Excise Tax**

**11951.** This part shall be known, and may be cited, as the Homes for Families and Corporate Monopoly Transparency Excise Tax Law.

**11952.** For purposes of this part:

(a) "Affordable housing unit" means a housing unit where rents are legally restricted to reflect no more than 30 percent of the household income for persons and families of low or moderate income.

- (b) "Department" means the California Department of Tax and Fee Administration.
- (c) "Fund" means the Homes for Families Fund created pursuant to Section 11960.
- (d) "Multifamily dwelling" means a residential structure with five or more dwelling units.
- (e) "Persons and families of low or moderate income" has the same meaning as that term is defined in Section 50093 of the Health and Safety Code.
- (f) (1) "Qualified property" means real property that is offered for rent or lease and that is either of the following:
  - (A) A single-family dwelling.
  - (B) A multifamily dwelling.
- (2) "Qualified property" does not include property where 50 percent or more of the units are affordable housing units.
- (g) (1) "Qualified taxpayer" means a person or entity that owns 10 or more qualified properties in this state during the calendar year.
- (2) "Qualified taxpayer" does not include any of the following:
  - (A) An eligible nonprofit corporation based in California whose primary activity is the development and preservation of affordable rental housing.
  - (B) A limited partnership in which the managing general partner is an eligible nonprofit corporation based in California whose primary activity is the development and preservation of affordable housing.
  - (C) A limited liability company in which the managing member is an eligible nonprofit corporation based in California whose primary activity is the development and preservation of affordable rental housing.
  - (D) A community land trust as defined in Section 402.1.
  - (E) A limited-equity housing cooperative as defined in Section 817 of the Civil Code.
  - (F) The state, the Regents of the University of California, a county, city, district, public authority, or public agency, and any other political subdivision or public corporation in the state.
- (h) "Single family dwelling" means a residential structure with less than five dwelling units.

**11955.** (a) An annual excise tax is hereby imposed upon a qualified taxpayer for the privilege of renting or leasing out qualified property in this state at a rate of \_\_\_ percent of the gross receipts of the qualified taxpayer that are derived from rental income.

(b) It is the intent of the Legislature to enact legislation that would increase the rate specified in subdivision (a) if the qualified taxpayer receives a certain number of code violations issued by the building department or health department of a city or county.

**11957.** (a) The department shall administer and collect the excise tax imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001)). For purposes of this part, references in the Fee Collection Procedures Law to "fee" shall include the tax imposed by this part and references to "feepayer" shall include any person or entity liable for the payment of the tax imposed by this part.

(b) The department may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, provisions governing collections, reporting, refunds, and appeals.

(c) The department may prescribe, adopt, and enforce emergency regulations relating to the administration



and enforcement of this part. Any emergency regulations prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

**11958.** The tax imposed by this part shall not be passed through to tenants by way of higher rents.

**11960.** (a) The Homes for Families Fund is hereby created in the State Treasury.

(b) All taxes, interest, penalties, and other amounts collected pursuant to this part, less refunds and costs of administration, shall be deposited in the fund.

(c) Upon appropriation, moneys in the fund shall be used for the following purposes:

(1) Rental assistance and relief for California tenants.

(2) Support for legal services to prevent evictions, harassment, and violations of law by landlords.

(3) Providing services and programs for persons experiencing homelessness in this state.

(4) Supporting the protection of existing, and the production of new, housing with an affordable housing cost or affordable rent, as defined in Sections 50052.5 and 50053, respectively, of the Health and Safety Code.

(5) Housing counseling services to promote home ownership, job training apprenticeship programs, and support for landlords that own fewer than 10 properties and have lost rental income from tenants due to COVID-19.

**SEC. 3.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

**SEC. 4.** This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to discourage landlords from raising rents and displacing tenants, to provide relief to tenants facing evictions, and to provide support for home ownership during a health and economic crisis, it is necessary that this act take effect immediately.



**SOPHIE HAHN**

Berkeley City Council, District 5  
 2180 Milvia Street, 5th Floor  
 Berkeley, CA 94704  
 (510) 981-7150  
 shahn@cityofberkeley.info

CONSENT CALENDAR  
 April 20, 2021

To: Honorable Members of the City Council  
 From: Councilmembers Sophie Hahn (Author), Kate Harrison (Cosponsor), and Susan Wengraf (Cosponsor)  
 Subject: Budget Referral: Solano Avenue Revitalization Plan

**RECOMMENDATION**

Refer up to \$300,000 to the FY2022-FY2023 Budget Process for the development of a two-part Solano Avenue “Master” Revitalization Plan; Part A for the Upper/Eastern end of Solano Avenue and Part B for mid-corridor blocks within the City of Berkeley, to coordinate with the City of Albany’s mid-corridor Solano Avenue Reconfiguration Plan.

**BACKGROUND**

On May 28, 2019, the Council unanimously referred to the FY 2020-21 Budget Process the development of a two-part revitalization plan for the Solano Avenue corridor (see attached). Funds were allocated by the City Council to begin the planning process.

On February 11, 2020, the City of Berkeley released a Request for Proposals (RFP) for the Solano Avenue Revitalization Plan, inviting qualified firms or individuals to create a vision and implementation plan for the portions of Solano Avenue within Berkeley, with a deadline for submission of proposals in early March 2020 (see attached). Days later, in response to the rapidly spreading COVID-9 virus, the City of Berkeley issued a Shelter in Place order. City staff were reassigned to handle emergency operations, and practically all non-essential City business operations ceased. In light of the emergency and impending fiscal concerns, on June 30, 2020, the Council referred the Solano Avenue Revitalization Plan to the November 2020 AAO process, using dollars that would have been spent there on the study to pay for the continuation of basic services.<sup>1</sup>

Although the Solano Avenue Revitalization Plan has not yet been fully funded, the need for revitalization has only become more urgent. Solano Avenue is a primary shopping district for much of North Berkeley, and as with many commercial corridors throughout the City, Solano Avenue has been hurt by the economic fallout of the COVID-19 pandemic.<sup>2</sup> The City’s temporary shutdowns of much of the retail and restaurant

<sup>1</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/06\\_June/City\\_Council\\_06-30-2020\\_-\\_Regular\\_Meeting\\_Agenda.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/06_June/City_Council_06-30-2020_-_Regular_Meeting_Agenda.aspx)

<sup>2</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2021/03\\_Mar/Documents/2021-03-09\\_Item\\_26\\_Berkeley\\_Economic\\_Dashboards\\_Update.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/03_Mar/Documents/2021-03-09_Item_26_Berkeley_Economic_Dashboards_Update.aspx)

industry to curtail the spread of the coronavirus has resulted in a dramatic decline in revenues for restaurants and cafes, retail shops, and salons along Solano Avenue. At the same time, the highly anticipated opening of Touchstone Climbing at the former Oaks Theater has been delayed. Attracting customers to return to the Solano Avenue corridor is essential for the recovery of small businesses along Solano and has the potential to generate significantly more tax revenues for the City by attracting new businesses and patrons over the long run.

In addition, Solano Avenue is the most important commercial and pedestrian-oriented street shared by Berkeley and Albany, which has already implemented a Complete Streets plan for lower Solano Avenue, and is finalizing plans for a second phase along the mid-Solano corridor, connecting with Berkeley. We will miss an important opportunity to plan in tandem with Albany if Berkeley can not move forward.

For these reasons, I am resubmitting a request to fund the Solano Avenue Revitalization Plan in the current budget cycle.

#### FISCAL IMPACTS

\$300,000 to fund a two-part Solano Avenue “Master” Revitalization Plan.

#### CONTACT INFORMATION

Vice Mayor Sophie Hahn, Council District 5, 510-682-5905 (cell)

#### ATTACHMENTS

1. Budget Referral: Solano Avenue Revitalization Plan, May 28, 2019
2. RFP for Solano Avenue Revitalization Plan, Feb. 11, 2021

**SOPHIE HAHN**

Berkeley City Council, District 5  
 2180 Milvia Street, 5th Floor  
 Berkeley, CA 94704  
 (510) 981-7150  
 shahn@cityofberkeley.info

CONSENT CALENDAR

May 28, 2019

To: Honorable Mayor and Members of the City Council  
 From: Councilmembers Sophie Hahn, Susan Wengraf, Kate Harrison, and  
 Mayor Jesse Arreguin  
 Subject: Budget Referral: Solano Avenue Revitalization Plan

RECOMMENDATION

1. Refer \$300,000 to the FY2020 - FY2021 Budget Process for the development of a two-part Solano Avenue "Master" Revitalization Plan; Part A for the Upper/Eastern end of Solano Avenue and Part B for mid-corridor blocks within the City of Berkeley, to coordinate with the City of Albany's mid-corridor Solano Avenue Reconfiguration Plan.
2. Direct the City Manager to send a letter to the City of Albany expressing Berkeley's desire to collaborate on reconfiguration and revitalization plans for the mid-corridor portion of Solano Avenue, and to initiate plans for coordination.

SUMMARY STATEMENT

Solano Avenue is a primary shopping district for much of North Berkeley, including the Thousand Oaks neighborhood and both the low and high North Berkeley hills. Revitalizing Solano Avenue as a neighborhood-serving, attractive and sustainable Main Street for North Berkeley is a key goal of local residents. Solano also has the potential to generate significantly more tax revenues for the City of Berkeley by attracting new businesses and patrons.

Upper Solano Avenue is extremely wide, with most of the right-of-way devoted to automobiles. This area presents a unique opportunity to create an enhanced sense of place for North Berkeley; to add pedestrian, landscaping and placemaking features that support a vibrant neighborhood Main Street and build community.

Solano Avenue is also the most important commercial and pedestrian-oriented street shared by Berkeley and Albany, knitting the two communities together. For approximately five blocks of mid-Solano, buildings on the North side of the street are in Berkeley, while the street, buildings on the South side of the street and *both* the North and South sidewalks are within Albany. This unusual configuration means that Albany

determines the street and sidewalk conditions for many Berkeley properties and businesses. Ensuring that mid-Solano amenities are similar and/or consistent on both the Albany and Berkeley portions of the street is thus particularly important. As a single continuous corridor, improvements to mid-Solano Avenue should be conceived and designed in a collaborative, coordinated manner.

Albany has already implemented a Complete Streets plan for lower Solano Avenue, from San Pablo Avenue to Masonic Avenue. This public investment in Albany's "downtown" at the western end of the Solano Avenue commercial corridor has triggered a notable revitalization, attracting new patrons and enlivening sidewalks.

Albany is currently discussing proposals for a second phase of their Solano Avenue Reconfiguration Plan, for the "mid-corridor" area, from Masonic Avenue to the Berkeley border. Due to an oversight, Berkeley's City Manager, Mayor and members of the City Council were not apprised of Albany's planning effort at the outset, and their visioning process has progressed without the City of Berkeley's participation.

*In light of the importance of Solano Avenue to all of North Berkeley, of Albany's "head start" on planning for the mid-Solano corridor, and to encourage the necessary collaborative process between our two cities, the need to fund a study for the Berkeley portion of Solano Avenue is urgent.*

This item refers \$300,000 to the FY2020 - FY 2021 Budget Process to begin development of a two-part Solano Avenue "Master" Revitalization Plan for Berkeley; Part A for the Upper/Eastern end of Solano Avenue and Part B for mid-corridor blocks within the City of Berkeley, allowing Berkeley to coordinate mid-Solano plans with Albany. This item also directs the City Manager to send a letter to the Albany City Manager, City Council and Transportation and Safety Commission expressing the City of Berkeley's desire to collaborate on important inter-City elements of Solano Avenue plans.

#### BACKGROUND

Since the 1920s, Solano Avenue has served as a neighborhood-serving shopping district for North Berkeley and a northern gateway for the City of Berkeley. Bordering Albany, Berkeley's Solano Avenue Commercial District is home to about 130 commercial spaces encompassing approximately 190,000 square feet of commercial space. The eastern, Berkeley portion of Solano Avenue (commonly referred to as "Upper Solano") was a key hub for a number of rail lines in the 1930s, and today is an extra-wide street largely devoted to automobiles and buses, with relatively narrow

sidewalks. Upper Solano has a number of restaurants, home goods, clothing, and other unique shops that make it a commercial hub for North Berkeley.

However, both anecdotal and quantitative data suggest that Solano Avenue is an underperforming commercial district for Berkeley. Solano is similar in neighborhood character to the Elmwood District on College Avenue, but The Elmwood earns significantly more tax revenue per block, despite the fact that the two districts are located in areas with similar home prices and populations with similar purchasing power. Despite a modest uptick, tax revenues from Solano Avenue remained relatively flat between 2010 and 2018, especially when compared to the significant increases over that same time period in other Berkeley districts<sup>1</sup>.

In recent years, Solano Avenue has been buffeted by changing demographics, the rise of online retail, and other forces that have impacted the area's longtime shops. For nearly a decade, the prominent Oaks Theater at 1875 Solano was vacant and had difficulty attracting an appropriate tenant.<sup>2</sup> The absence of the theatre, which drew patrons throughout afternoons and evenings, has deprived the area of much needed foot traffic.

In 2018, commercial vacancy rates in the Solano District were at 5.6%. This means that of a total inventory of ground floor commercial space of approximately 191,000 square feet, about 10,696 square feet were vacant. The vacancy rate was nearly a point higher than it was the previous year, and significantly higher than in the years 2012-2015, when the vacancy rate hovered between 3.5% to 4.4%.<sup>3</sup>

Solano Avenue is also undergoing a number of changes, including the impending opening of a Touchstone Climbing Gym at the long-vacant Oaks Theatre space. Touchstone estimates several hundred visitors per day. The opening of the new gym is expected to bring many new patrons to Solano Avenue's shops and restaurants, and will also impact parking and drop off zones.

Many of Touchstone's existing patrons ride bikes to their other locations (including Ironworks Gym in Berkeley), and demand for bike parking and other bicycle amenities on Solano is expected to increase dramatically once the gym opens. Solano Avenue was identified for a future Complete Street Corridor Study in the 2017 Berkeley Bicycle

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<sup>1</sup> Berkeley Office of Economic Development, Commercial District Dashboard, March 2019

<sup>2</sup> Berkeley Office of Economic Development, Economic Development Analysis – Solano Avenue, Feb. 2017.

<sup>3</sup> Berkeley Office of Economic Development, Economic Dashboard, 2018.

Plan, and numerous requests for a Ford Go-Bike station on Solano Avenue have been received since the successful launch of the City's bike sharing program.

Berkeley can strengthen community, enhance commerce and public space, better serve a variety of transit modes and increase tax revenues with the prompt initiation of an aspirational visioning and planning process for Solano Avenue.

In the spring of 2018, the Albany City Council began a public process to develop and approve a Solano Avenue Complete Streets Plan for the "mid-corridor" section of Solano Avenue, from Masonic Avenue to the Berkeley City Limit just east of Ventura Avenue. Goals of the study include strategies to "improve safety for pedestrians and bicyclists; enhance access to transit; promote a cohesive streetscape; [and] support local economic activity"<sup>4</sup>. The study also specifically considers "street lighting, intersection alignments, signal modernization, bike facilities, sidewalk improvements, streetscape landscaping, street parking, bus stops, public art, directional signage, and gateway improvements"<sup>5</sup>. Finally, the study considers a number of aesthetic features and improvements including public art, signage, and intersection and roadway design.

During the February 28, 2019 meeting of Albany's Traffic & Safety Commission, the Commission recommended to the City Council adoption of the draft Solano Avenue Complete Streets Plan<sup>6</sup>, including an alternative community plan with different parking and bike infrastructure recommendations. To date, the Plan as recommended by the Traffic & Safety Commission has not yet been discussed by the full Albany City Council, but it is expected to be heard soon. The plan, if adopted, has no sources of funding for implementation, but will guide future improvements on Solano Avenue in Albany. Despite an uneven start, there is still time for Berkeley to "catch up" and coordinate with Albany to create a cohesive, mutually beneficial mid-Solano plan that reflects the aspirations of both communities.

The community's desire for a revitalized Solano Avenue, coupled with consideration of the need to coordinate with Albany's Solano Avenue planning process presents a unique opportunity for Berkeley to begin its own visioning process for Solano Avenue.

#### REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES & LAWS

Policy ED-4 *Neighborhood and Avenue Commercial Districts* of the Economic Development Element of the General Plan sets the goal of providing programs and

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<sup>4</sup> <https://www.solanocompletestreets.org/>

<sup>5</sup> <https://www.solanocompletestreets.org/>

<sup>6</sup> <https://static1.squarespace.com/static/5ac43de02714e5d504879d1a/t/5c6210b26e9a7f2f1c03066d/1549930705894/Solano+Complete+Streets+Public+Review+Draft+2.11.19.pdf>



services to assist neighborhood and avenue commercial districts through actions such as “enhanc[ing] the pedestrian orientation of all shopping districts”.

Specifically, the City Council referred a Solano Avenue Economic Development Study to City Staff on April 25, 2017 to provide baseline information for future strategic planning and business development and initiatives. Several economic reports developed by the Office of Economic Development also demonstrate the potential for improvement to the City’s tax base by working towards a thriving Solano Avenue.

#### ACTIONS/ALTERNATIVES CONSIDERED

The City could defer initiating a comprehensive study for Solano Avenue and take it up at a later time. However, this would preclude any collaboration in the Albany redesign process, and because it is likely that any plan or vision approved in Albany will inform future changes in Berkeley, it is important that Berkeley be involved at the earliest stage possible. Delaying the study would also further prolong improvements to the Solano Avenue commercial district. Given the length of time need to conduct a thorough community process and to complete any construction or infrastructure project that is approved, starting a process now will ultimately yield more timely results.

#### CONSULTATION/OUTREACH OVERVIEW & RESULTS

Councilmember Hahn’s office has discussed the possibility of collaboration with Berkeley with Albany City Councilmembers and the Albany Mayor, and discussed with City Manager Dee Williams-Ridley funding for a Solano Avenue study, outreach protocols and project timing.

#### RATIONALE FOR RECOMMENDATION

The Albany study has been in development for nearly a year, and will soon be reviewed by the Albany City Council. Because Solano Avenue spans both Albany and Berkeley, it is imperative that Berkeley be informed of and engaged with proposed Albany improvements, and that a Berkeley study be undertaken to establish Berkeley’s own objectives and preferences for Solano Avenue.

Transportation infrastructure and other changes to the Albany-side of Solano Avenue will undoubtedly influence any future transportation infrastructure on the Berkeley portion of Solano Avenue. As such, collaboration between Berkeley and Albany on the mid-corridor redesign is key to a sensible and coherent transition between the Albany and Berkeley portions of Solano Avenue.

#### IMPLEMENTATION, ADMINISTRATION & ENFORCEMENT

The two elements of the requested study are intended to produce inspiring plans for the Upper and mid-Solano portions of Solano Avenue in Berkeley. The Avenue should be seen first as a public space and a driver of community and economic strength; a neighborhood destination, not just a place to pass through quickly.

The goal for Upper Solano, from The Alameda to approximately Ensenada Avenue (exact western border to be determined by the study), is to create a strong and aesthetically pleasing sense of place, and to enhance the experience of the public realm. Upper Solano Avenue already serves as a Main Street for much of North Berkeley; the intent is for this area to become a more vibrant, attractive and accessible Main Street; a complete ecosystem with greater amenities for residents of all ages, and for all modes of transit. Improvements should be considered that create spaces for social interaction and define a character for the street, including but not limited to landscaping, seating, street furniture, lighting, public art and other features that invite the community to gather, linger, shop and dine more frequently.

The goal for the Berkeley portion of mid-Solano (from approximately Ensenada to where Albany picks up responsibility for the street and sidewalks) is to continue pedestrian and other amenities at a scale appropriate for the mix and concentration of retail, office and residential uses, and to coordinate with Albany to ensure a cohesive corridor.

The study should include robust community outreach and input and, at a minimum, a community survey, a public realm study, review of transit needs and pedestrian safety and crossings, a parking study, review of street and curb alignments (including possible alternatives to the Colusa Dogleg) and green infrastructure.

#### FISCAL IMPACTS

\$300,000 to fund a two-part Solano Avenue “Master” Revitalization Plan. Funds for implementation of the plan have not yet been identified; this is a preliminary visioning process to create a master plan from which funding needs and resources can be derived. Transit infrastructure and pedestrian accessibility improvements that may result from future implementation are intended to increase City tax revenues from Solano Avenue.

#### ENVIRONMENTAL SUSTAINABILITY

This recommendation is consistent with the City of Berkeley’s environmental sustainability goals by encouraging biking and walking, incorporating green infrastructure, and strengthening community.

#### CONTACT

Sophie Hahn, District 5, (510) 981-7150

ATTACHMENTS

1. Map of Solano Avenue Commercial District, OED Economic Dashboards 2019
2. Photos of streetscape, pedestrian, and traffic treatments on Upper Solano Ave

**Attachment 1**



Attachment 2









Finance Department  
General Services Division

**FOR PROPOSALS (RFP)  
Specification No. 20-11384-C  
FOR  
Solano Avenue Revitalization Plan  
PROPOSALS WILL NOT BE OPENED AND READ PUBLICLY**

Dear Proposer:

The City of Berkeley is soliciting written proposals from qualified firms or individuals **to create a vision and implementation plan for the portions of Solano Avenue within Berkeley**. As a Request for Proposal (RFP) this is not an invitation to bid and although price is very important, other factors will be taken into consideration.

The project scope, content of proposal, and vendor selection process are summarized in the RFP (attached). **Proposals must be received no later than 2:00 pm, on Thursday, March 5, 2020**. All responses must be in a sealed envelope and have “**Solano Avenue Revitalization Plan**” and **Specification No. 20-11384-C** clearly marked on the **outer most mailing envelope**. Please submit one (1) unbound original, four (4) unbound copies, and one (1) electronic copy of the proposal as follows:

**Mail or Hand Deliver To:**  
City of Berkeley  
Finance Department/General Services Division  
2180 Milvia Street, 3rd Floor  
Berkeley, CA 94704

Proposals will not be accepted after the date and time stated above. Incomplete proposal or proposals that do not conform to the requirements specified herein will not be considered. Issuance of the RFP does not obligate the City to award a contract, nor is the City liable for any costs incurred by the proposer in the preparation and submittal of proposals for the subject work. The City retains the right to award all or parts of this contract to several bidders, to not select any bidders, and/or to re-solicit proposals. The act of submitting a proposal is a declaration that the proposer has read the RFP and understands all the requirements and conditions.

**For questions** concerning the anticipated work, or scope of the project, please **contact Melissa McDonough, Senior Management Analyst**, via email at **mcdonough@cityofberkeley.info** no later than **February 21**. Answers to questions will **not** be provided by telephone or email. Rather, answers to all questions or any addenda will be **posted** on the City of Berkeley’s site at **<http://www.cityofberkeley.info/ContentDisplay.aspx?id=7128>**. It is the vendor’s responsibility to check this site. For general questions concerning the submittal process, contact purchasing at 510-981-7320.

Sincerely,

Darryl Sweet  
General Services Manager

2180 Milvia Street, Berkeley, CA 94704 Tel: 510.981.7320 TDD: 510.981.6903 Fax: 510.981.7390  
E-mail: [finance@ci.berkeley.ca.us](mailto:finance@ci.berkeley.ca.us) Website: <http://www.ci.berkeley.ca.us/finance>

**I. BACKGROUND**

Since the 1920s, Solano Avenue has served as a neighborhood-serving shopping district for North Berkeley and a northern gateway for the City of Berkeley. Bordering Albany, Berkeley’s Solano Avenue Commercial District is home to about 130 commercial spaces encompassing approximately 190,000 square feet.

Figure 1 depicts the Study Area, which consists of those portions of Solano Avenue within the City of Berkeley. Refinements to the study area will be determined as part of the project.

Figure 1, Study Area.



Albany has recently completed a Complete Streets Plan for portions of Solano Avenue, from San Pablo Avenue to Masonic Avenue, and is hoping to extend the project to include those portions of Solano Avenue, from Masonic Avenue to the City of Berkeley. There are approximately five blocks of Solano Avenue in which buildings on the north side of the street are in Berkeley, while the street, buildings on the south side of the street and both the north and south sidewalks are within Albany. This configuration means that Albany determines the street and sidewalk conditions for many Berkeley properties and businesses. In this portion of Solano Avenue, it is important ensure that amenities are similar and/or consistent on both the Albany and Berkeley portions of the street.

The eastern, Berkeley portion of Solano Avenue (commonly referred to as “Upper Solano” and generally understood as the portion of Solano Avenue from The Alameda to Ensenada Avenue) presents a unique opportunity to create an enhanced sense of place for North Berkeley; to add pedestrian, landscaping and placemaking features that support a vibrant neighborhood Main Street and build community. This portion of Solano Avenue was a key hub for a number of rail lines in the 1930s, and today is an extra-wide street largely devoted to automobiles and buses, with relatively narrow sidewalks. Upper Solano has a number of restaurants, home goods, clothing, and other unique shops that make it a commercial hub for North Berkeley. In 2020, the City anticipates the opening of a climbing gym at the long vacant Oaks Theatre space (1875 Solano Avenue). The opening of the new gym is expected to bring many new patrons to Solano Avenue. For a more focused look at economic performance in Berkeley’s neighborhood commercial districts, visit <https://www.cityofberkeley.info/oed/reports/>.



The City of Berkeley (the “City”) is soliciting submissions from qualified firms, teams, or individuals to provide professional consultant services necessary to develop a community vision, along with design and revitalization concepts for the portion of Solano Avenue in the City that will provide a foundation for a thriving economy and a place where the community gathers. The final work product will be actionable, with an implementation plan that should include the key milestones, a financing plan, and identify key partners that the City will need to realize the vision for Solano Avenue.

### ***Goals of the Solano Avenue Revitalization Plan***

The overall goal of this project is to conduct an inclusive and transparent community process, identify and engage meaningfully with all stakeholders, identify design interventions, and provide an actionable vision and achievable revitalization plan for Berkeley’s Solano Avenue that strengthens community, enhances commerce and public space, and better serves a variety of transit modes.

The goals for this study are to:

- Create a strong identity and an aesthetically distinct sense of place,
- Enhance the experience of the public realm,
- Invigorate commerce and become a more vibrant, attractive and accessible Main Street with amenities for all ages and transit modes,
- Offer improvements that create spaces for social interaction and define a character for the street including but not limited to landscaping, seating, street furniture, lighting, public art and other features that invite the community to gather, linger, shop and dine more frequently,
- Propose pedestrian and other amenities at a scale appropriate to the mix and concentration of retail, office, and residential uses, and
- Coordinate, as necessary, with the City of Albany<sup>1</sup>.

### ***Additional Considerations***

A successful revitalization plan project will include robust outreach, incorporate sustainability into its recommendations, and devise revitalization strategies well-tailored to the community’s needs. The vision for Solano Avenue should be summarized in an implementation plan that at minimum, includes the following:

- Distillation of community input,
- Public realm study,
- Review of transit needs and pedestrian safety at key crossings,
- Parking study,
- Review of street and curb alignments,
- Recommended zoning code revisions (if any),
- Economic development initiatives,
- Ranked menu of green infrastructure recommendations/options, and
- Financing plan.

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<sup>1</sup> In 2019, the City of Albany adopted a Complete Streets and Corridor Revitalization Plan for portions of Solano Avenue in their jurisdiction. The City of Albany’s Complete Streets and Corridor Revitalization Plan and related documents are at <https://www.solanocompletestreets.org/>.

Proposers should demonstrate that community outreach and engagement will be accessible and address any barriers to achieving equitable outreach and engagement.

**II. SCOPE OF SERVICES**

*Project Tasks*

The project will consist of tasks that may include, but are not limited to those outlined below.

I. Project Initiation

- A. Attend kick-off meeting to review project goals, scope, and study area.
- B. Refine scope, if necessary.

II. Research

- A. Document review (e.g., collect and review existing plans and data).
- B. Conduct site visit.
- C. Draft *Existing Conditions Report* (including maps).

III. Outreach

- A. Develop *Outreach Plan*.
- B. Create and disseminate outreach materials.
- C. Hold outreach events (e.g., meetings, interviews, focus groups, design charrettes, workshops, etc.).
- D. Draft summary of community ideas from outreach events.

IV. Plan Development

- A. Develop up to three (3) design and revitalization concepts informed by community ideas.
- B. Develop *Draft Plan*, including identifying financial tools and resources for implementation.

V. Plan Revision

- A. Present *Draft Plan* to stakeholders, relevant City Commissions and Boards (i.e., Solano Avenue Business Improvement District), soliciting feedback.
- B. Revise *Draft Plan* based on feedback.

VI. Final Plan

- A. Present *Final Plan* to City Council.

*Project Term*

The project work is anticipated to begin in summer 2020 and should be completed by summer 2021.

**III. SUBMISSION REQUIREMENTS**

All proposals shall include the following information, organized as separate sections of the proposal. The proposal should be concise and to the point.

1. Contractor Identification:

Provide the name of the firm, the firm's principal place of business, the name and telephone number of the contact person and company tax identification number.

2. Firm Experience:

Provide a listing of relevant projects completed by the project team within the past five (5) years involving community outreach, design and/or revitalization work with municipalities, public sector, or business districts. For each listing please include a brief description of each project, the location, and the project start and completion date.

3. Staff Experience:

Provide a listing of each key staff person in the firm who will be assigned to the project and background information demonstrating their capabilities and qualifications to perform the assigned task. For each individual, provide current professional registrations, related experience, educational background, and years of experience with the team.

4. Client References:

Provide a minimum of *three (3)* client references. References should be California cities or other large public sector entities. Provide the designated person's name, title, organization, address, telephone number, and the project(s) that were completed under that client's direction.

5. Project Understanding

Briefly indicate your understanding of the definition of the project, its goals, and any associated potential opportunities. List any challenges that you anticipate, and explain how you will overcome those challenges.

6. Project Approach

Describe how you will approach this project as described in sections I and II above. Explain the specific tasks you will implement, the research you will undertake, outreach you plan to conduct and the deliverables you will provide to the City of Berkeley. Include a timeline/project plan assuming a June 2, 2020 start date and a June 30, 2021 end date. Highlight milestones, resource requirements, and necessary inputs not addressed herein.

7. Project Organization

Provide a chart showing the names and assignment of all key personnel, including an estimate of each individual's time commitment to the project. The chart should include proposed lines of communication with City staff. Any proposed sub-consultants should be clearly identified on the chart.

8. Price Proposal:

The proposal shall include pricing for all services by task. Pricing shall be all inclusive unless indicated otherwise on a separate pricing sheet. The Proposal shall itemize all services, including hourly rates for all professional, technical and support personnel, and all other charges related to completion of the work shall be itemized.

9. Contract Terminations:

**If your organization has had a contract terminated in the last five (5) years, describe such incident.** Termination for default is defined as notice to stop performance due to the vendor's non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the vendor, or (b) litigated and such litigation determined that the vendor was in default.

Submit full details of the terms for default including the other party's name, address, and phone number. Present the vendor's position on the matter. The City will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of the past experience.

If the firm has not experienced any such termination for default or early termination in the past five (5) years, so indicate.

**IV. SELECTION CRITERIA**

The following criteria will be considered, although not exclusively, in determining which firm is hired.

1. Qualifications and References - including relevant experience of project team. (35%)
2. Project Understanding. (20%)
3. Demonstrated Efficient and Effective Project Approach (40%)
4. Overall Quality of the Response - including completeness, clarity, and organization. (5%)

A selection panel will be convened to evaluate proposals and select a firm.

After a review of the proposals from the short listed respondents, the City may ask the proposers to make an oral presentation to answer any questions the City may have and to clarify their proposal. The City will then rank the proposals and will attempt to negotiate satisfactory contracts with them. If the City is unable to reach agreement with the selected respondents, the City will repeat the negotiation process with the next highest respondent, and so on, if necessary.

**V. PAYMENT**

Invoices: Invoices must be fully itemized, and provide sufficient information for approving payment and audit. Invoices must be accompanied by receipt for services in order for payment to be processed. Mail invoices to the Project Manager and reference the contract number.

City of Berkeley  
Accounts Payable  
PO Box 700  
Berkeley, CA 94701

Payments: The City will make payment to the vendor within 30- days of receipt of a correct and complete invoice.

**VI. CITY REQUIREMENTS**

**A. Non-Discrimination Requirements:**

Ordinance No. 5876-N.S. codified in B.M.C. Chapter 13.26 states that, for contracts worth more than \$3,000 bids for supplies or bids or proposals for services shall include a completed Workforce Composition Form. Businesses with fewer than five employees are exempt from submitting this form. (See B.M.C. 13.26.030)

Under B.M.C. section 13.26.060, the City may require any bidder or vendor it believes may have discriminated to submit a Non-Discrimination Program. The Contract Compliance Officer will make this determination. This applies to all contracts and all consultants (contractors). Berkeley Municipal

Code section 13.26.070 requires that all contracts with the City contain a non-discrimination clause, in which the contractor agrees not to discriminate and allows the City access to records necessary to monitor compliance. This section also applies to all contracts and all consultants. **Bidders must submit the attached Non-Discrimination Disclosure Form with their proposal**

**B. Nuclear Free Berkeley Disclosure Form:**

Berkeley Municipal Code section 12.90.070 prohibits the City from granting contracts to companies that knowingly engage in work for nuclear weapons. This contracting prohibition may be waived if the City Council determines that no reasonable alternative exists to doing business with a company that engages in nuclear weapons work. If your company engages in work for nuclear weapons, explain on the Disclosure Form the nature of such work. **Bidders must submit the attached Nuclear Free Disclosure Form with their proposal.**

**C. Oppressive States:**

The City of Berkeley prohibits granting of contracts to firms that knowingly provide personal services to specified Countries. This contracting prohibition may be waived if the City Council determines that no reasonable alternative exists to doing business with a company that is covered by City Council Resolution No. 59,853-N.S. If your company or any subsidiary is covered, explain on the Disclosure Form the nature of such work. **Bidders must submit the attached Oppressive States Disclosure Form with their proposal.**

**D. Sanctuary City Contracting Ordinance:**

Chapter 13.105 of the Berkeley Municipal Code prohibits the City from granting and or retaining contracts with any person or entity that provides Data Broker or Extreme Vetting services to the U.S. Immigration and Customs Enforcement Division of the United States Department of Homeland Security (“ICE”). **Bidders must submit the attached Sanctuary City Compliance Statement with their proposal.**

**E. Conflict of Interest:**

In the sole judgment of the City, any and all proposals are subject to disqualification on the basis of a conflict of interest. The City may not contract with a vendor if the vendor or an employee, officer or director of the proposer's firm, or any immediate family member of the preceding, has served as an elected official, employee, board or commission member of the City who influences the making of the contract or has a direct or indirect interest in the contract.

Furthermore, the City may not contract with any vendor whose income, investment, or real property interest may be affected by the contract. The City, at its sole option, may disqualify any proposal on the basis of such a conflict of interest. **Please identify any person associated with the firm that has a potential conflict of interest.**

**F. Berkeley Living Wage Ordinance:**

Chapter 13.27 of the Berkeley Municipal Code requires that contractors offer all eligible employees with City mandated minimum compensation during the term of any contract that may be awarded by the City. If the Contractor is not currently subject to the Living Wage Ordinance, cumulative contracts with the City within a one-year period may subject Contractor to the requirements under B.M.C. Chapter 13.27. A certification of compliance with this ordinance will be required upon execution of a contract. The current Living Wage rate can be found here:

[https://www.cityofberkeley.info/Finance/Home/Vendors\\_Living\\_Wage\\_Ordinance.aspx](https://www.cityofberkeley.info/Finance/Home/Vendors_Living_Wage_Ordinance.aspx). The Living Wage rate is adjusted automatically effective June 30<sup>th</sup> of each year commensurate with the corresponding increase in the Consumer Price Index published in April of each year. If the Living Wage rate is adjusted during the term of your agreement, you must pay the new adjusted rate to all eligible employees, regardless of what the rate was when the contract was executed.

**G. Berkeley Equal Benefits Ordinance:**

Chapter 13.29 of the Berkeley Municipal Code requires that contractors offer domestic partners the same access to benefits that are available to spouses. A certification of compliance with this ordinance will be required upon execution of a contract.

**H. Statement of Economic Interest:**

The City's Conflict of Interest Code designates "consultants" as a category of persons who must complete Form 700, Statement of Economic Interest, at the beginning of the contract period and again at the termination of the contract. The selected contractor will be required to complete the Form 700 before work may begin.

**VII. OTHER REQUIREMENTS**

**A. Insurance**

The selected contractor will be required to maintain general liability insurance in the minimum amount of \$2,000,000, automobile liability insurance in the minimum amount of \$1,000,000 and a professional liability insurance policy in the amount of \$2,000,000 to cover any claims arising out of the performance of the contract. The general liability and automobile insurance must name the City, its officers, agents, volunteers and employees as additional insureds.

**B. Worker's Compensation Insurance:**

A selected contractor who employs any person shall maintain workers' compensation insurance in accordance with state requirements. Sole proprietors with no employees are not required to carry Worker's Compensation Insurance.

**C. Business License**

Virtually every contractor that does business with the City must obtain a City business license as mandated by B.M.C. Ch. 9.04. The business license requirement applies whether or not the contractor has an office within the City limits. However, a "casual" or "isolated" business transaction (B.M.C. section 9.04.010) does not subject the contractor to the license tax. Warehousing businesses and charitable organizations are the only entities specifically exempted in the code from the license requirement (see B.M.C. sections, 9.04.295 and 9.04.300). Non-profit organizations are granted partial exemptions (see B.M.C. section 9.04.305). Persons who, by reason of physical infirmity, unavoidable misfortune, or unavoidable poverty, may be granted an exemption of one annual free license at the discretion of the Director of Finance. (see B.M.C. sections 9.04.290).

Vendor must apply for a City business license and show proof of application to Purchasing Manager within seven days of being selected as intended contractor.

The Customer Service Division of the Finance Department located at 1947 Center Street, Berkeley, CA 94704, issues business licenses. Contractors should contact this division for questions and/or information on obtaining a City business license, in person, or by calling 510-981-7200.

**D. Recycled Paper**

**All reports to the City shall be on recycled paper that contains at least 50% recycled product** when such paper is available at a cost of not greater than ten percent more than the cost of virgin paper, and when such paper is available at the time it is required. If recycled paper is not available the Contractor shall use white paper. Written reports or studies shall be *printed on both sides of the page* whenever practical.

**E. State Prevailing Wage:**

Certain labor categories under this project may be subject to prevailing wages as identified in the State of California Labor Code commencing in Section 1770 et. seq. These labor categories, when employed for any “work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work,” constitute a “Public Work” within the definition of Section 1720(a)(1) of the California Labor Code requiring payment of prevailing wages.

Wage information is available through the California Division of Industrial Relations web site at: [http://www.dir.ca.gov/OPRL/statistics\\_and\\_databases.html](http://www.dir.ca.gov/OPRL/statistics_and_databases.html)

**VIII. SCHEDULE (dates are subject to change)**

- |  |                        |
|--|------------------------|
| <input type="checkbox"/> Issue RFP to Potential Bidders:           | February 11, 2020      |
| <input type="checkbox"/> Questions Due                             | February 21, 2020      |
| <input type="checkbox"/> Proposals Due from Potential Bidders      | March 5, 2020          |
| <input type="checkbox"/> Interviews (if needed)                    | Week of March 23, 2020 |
| <input type="checkbox"/> Complete Selection Process                | April 10, 2020         |
| <input type="checkbox"/> Council Approval of Contract (over \$50k) | May 26, 2020           |
| <input type="checkbox"/> Award of Contract                         | May 27, 2020           |
| <input type="checkbox"/> Sign and Process Contract                 | June 8, 2020           |
| <input type="checkbox"/> Notice to Proceed                         | June 9, 2020           |

Thank you for your interest in working with the City of Berkeley for this service. We look forward to receiving your proposal.

**Attachments:**

- |   |              |
|---|--------------|
| • Check List of Required items for Submittal    | Attachment A |
| • Non-Discrimination/Workforce Composition Form | Attachment B |
| • Nuclear Free Disclosure Form                  | Attachment C |
| • Oppressive States Form                        | Attachment D |
| • Sanctuary City Compliance Statement           | Attachment E |
| • Living Wage Form                              | Attachment F |
| • Equal Benefits Certification of Compliance    | Attachment G |

- Right to Audit Form
- Insurance Endorsement
- Professional Consulting Agreement

Attachment H  
Attachment I  
Attachment J



**ATTACHMENT A**

**CHECKLIST**

- Proposal describing service (one (1) unbound original and four (4) unbound copies, and one (1) electric copy of the proposal)
- Contractor Identification and Company Information
- Client References
- Costs proposal by task, type of service & personnel
- The following forms, completed and **signed in blue ink** (attached):
  - Non-Discrimination/Workforce Composition Form Attachment B
  - Nuclear Free Disclosure Form Attachment C
  - Oppressive States Form Attachment D
  - Sanctuary City Compliance Statement Attachment E
  - Living Wage Form (*may be optional*) Attachment F
  - Equal Benefits Ordinance Certification of Compliance (EBO-1) Attachment G

**ADDITIONAL SUBMITTALS REQUIRED FROM SELECTED VENDOR AFTER COUNCIL APPROVAL TO AWARD CONTRACT.**

- Provide **original-signed in blue ink** Evidence of Insurance
  - Auto
  - Liability
  - Worker’s Compensation
- Right to Audit Form Attachment H
- Commercial General & Automobile Liability Endorsement Form Attachment I
- Berkeley Business License

**For informational purposes only: Sample of Personal Services Contract can be found on the City’s website on the current bid and proposal page at the top of the page.**

**NON-DISCRIMINATION/WORKFORCE COMPOSITION FORM FOR NON-CONSTRUCTION CONTRACTS**

To assist the City of Berkeley in implementing its Non-Discrimination policy, it is requested that you furnish information regarding your personnel as requested below and return it to the City Department handling your contract:

Organization: \_\_\_\_\_

Address: \_\_\_\_\_

Business Lic. #: \_\_\_\_\_

Occupational Category: _____ (See reverse side for explanation of terms)	Total Employees		White Employees		Black Employees		Asian Employees		Hispanic Employees		Other Employees	
	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male
Official/Administrators												
Professionals												
Technicians												
Protective Service Workers												
Para-Professionals												
Office/Clerical												
Skilled Craft Workers												
Service/Maintenance												
Other (specify)												
Totals:												

Is your business MBE/WBE/DBE certified? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, by what agency? \_\_\_\_\_

If yes, please specify: Male: \_\_\_\_\_ Female: \_\_\_\_\_ Indicate ethnic identifications: \_\_\_\_\_

Do you have a Non-Discrimination policy? Yes: \_\_\_\_\_ No: \_\_\_\_\_

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

Verified by: \_\_\_\_\_ Date: \_\_\_\_\_

City of Berkeley Contract Compliance Officer

**Attachment B** (page 1)

## Occupational Categories

**Officials and Administrators** - Occupations in which employees set broad policies, exercise overall responsibility for execution of these policies, or provide specialized consultation on a regional, district or area basis. Includes: department heads, bureau chiefs, division chiefs, directors, deputy superintendents, unit supervisors and kindred workers.

**Professionals** - Occupations that require specialized and theoretical knowledge that is usually acquired through college training or through work experience and other training that provides comparable knowledge. Includes: personnel and labor relations workers, social workers, doctors, psychologists, registered nurses, economists, dietitians, lawyers, systems analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers or instructors, and kindred workers.

**Technicians** - Occupations that require a combination of basic scientific or technical knowledge and manual skill that can be obtained through specialized post-secondary school education or through equivalent on-the-job training. Includes: computer programmers and operators, technical illustrators, highway technicians, technicians (medical, dental, electronic, physical sciences) and kindred workers.

**Protective Service Workers** - Occupations in which workers are entrusted with public safety, security and protection from destructive forces. Includes: police officers, fire fighters, guards, sheriffs, bailiffs, correctional officers, detectives, marshals, harbor patrol officers, and kindred workers.

**Para-Professionals** - Occupations in which workers perform some of the duties of a professional or technician in a supportive role, which usually requires less formal training and/or experience normally required for professional or technical status. Such positions may fall within an identified pattern of a staff development and promotion under a "New Transporters" concept. Includes: library assistants, research assistants, medical aides, child support workers, police auxiliary, welfare service aides, recreation assistants, homemaker aides, home health aides, and kindred workers.

**Office and Clerical** - Occupations in which workers are responsible for internal and external communication, recording and retrieval of data and/or information and other paperwork required in an office. Includes: bookkeepers, messengers, office machine operators, clerk-typists, stenographers, court transcribers, hearings reporters, statistical clerks, dispatchers, license distributors, payroll clerks, and kindred workers.

**Skilled Craft Workers** - Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Includes: mechanics and repairpersons, electricians, heavy equipment operators, stationary engineers, skilled machining occupations, carpenters, compositors and typesetters, and kindred workers.

**Service/Maintenance** - Occupations in which workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or which contribute to the upkeep and care of buildings, facilities or grounds of public property. Workers in this group may operate machinery. Includes: chauffeurs, laundry and dry cleaning operatives, truck drivers, bus drivers, garage laborers, custodial personnel, gardeners and groundskeepers, refuse collectors, and construction laborers.

**Attachment B (page 2)**

**CITY OF BERKELEY**  
**Nuclear Free Zone Disclosure Form**

I (we) certify that:

1. I am (we are) fully cognizant of any and all contracts held, products made or otherwise handled by this business entity, and of any such that are anticipated to be entered into, produced or handled for the duration of its contract(s) with the City of Berkeley. (To this end, more than one individual may sign this disclosure form, if a description of which type of contracts each individual is cognizant is attached.)
2. I (we) understand that Section 12.90.070 of the Nuclear Free Berkeley Act (Berkeley Municipal Code Ch. 12.90; Ordinance No. 5784-N.S.) prohibits the City of Berkeley from contracting with any person or business that knowingly engages in work for nuclear weapons.
3. I (we) understand the meaning of the following terms as set forth in Berkeley Municipal Code Section 12.90.130:

"Work for nuclear weapons" is any work the purpose of which is the development, testing, production, maintenance or storage of nuclear weapons or the components of nuclear weapons; or any secret or classified research or evaluation of nuclear weapons; or any operation, management or administration of such work.

"Nuclear weapon" is any device, the intended explosion of which results from the energy released by reactions involving atomic nuclei, either fission or fusion or both. This definition of nuclear weapons includes the means of transporting, guiding, propelling or triggering the weapon if and only if such means is destroyed or rendered useless in the normal propelling, triggering, or detonation of the weapon.

"Component of a nuclear weapon" is any device, radioactive or non-radioactive, the primary intended function of which is to contribute to the operation of a nuclear weapon (or be a part of a nuclear weapon).

4. Neither this business entity nor its parent nor any of its subsidiaries engages in work for nuclear weapons or anticipates entering into such work for the duration of its contract(s) with the City of Berkeley.

Based on the foregoing, the undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Printed Name:

\_\_\_\_\_ Title: \_\_\_\_\_

Signature:

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

Business Entity:

\_\_\_\_\_

Contract Description/Specification No: **Solano Avenue Revitalization Plan/ 20-11384-C**

**Attachment C**

**CITY OF BERKELEY**  
**Oppressive States Compliance Statement**

The undersigned, an authorized agent of \_\_\_\_\_ (hereafter "Vendor"), has had an opportunity to review the requirements of Berkeley City Council Resolution No. 59,853-N.S. (hereafter "Resolution"). Vendor understands and agrees that the City may choose with whom it will maintain business relations and may refrain from contracting with those Business Entities which maintain business relationships with morally repugnant regimes. Vendor understands the meaning of the following terms used in the Resolution:

"Business Entity" means "any individual, firm, partnership, corporation, association or any other commercial organization, including parent-entities and wholly-owned subsidiaries" (to the extent that their operations are related to the purpose of the contract with the City).

"Oppressive State" means: **Tibet Autonomous Region and the Provinces of Aho, Kham and U-Tsang**

"Personal Services" means "the performance of any work or labor and shall also include acting as an independent contractor or providing any consulting advice or assistance, or otherwise acting as an agent pursuant to a contractual relationship."

Contractor understands that it is not eligible to receive or retain a City contract if at the time the contract is executed, or at any time during the term of the contract it provides Personal Services to:

- a. The governing regime in any Oppressive State.
- b. Any business or corporation organized under the authority of the governing regime of any Oppressive State.
- c. Any person for the express purpose of assisting in business operations or trading with any public or private entity located in any Oppressive State.

Vendor further understands and agrees that Vendor's failure to comply with the Resolution shall constitute a default of the contract and the City Manager may terminate the contract and bar Vendor from bidding on future contracts with the City for five (5) years from the effective date of the contract termination.

The undersigned is familiar with, or has made a reasonable effort to become familiar with, Vendor's business structure and the geographic extent of its operations. By executing the Statement, Vendor certifies that it complies with the requirements of the Resolution and that if any time during the term of the contract it ceases to comply, Vendor will promptly notify the City Manager in writing.

Based on the foregoing, the undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

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

Business Entity: \_\_\_\_\_

Contract Description/Specification No:  
**Solano Avenue Revitalization Plan/ 20-11384-C**

I am unable to execute this Statement; however, Vendor is exempt under Section VII of the Resolution. I have attached a separate statement explaining the reason(s) Vendor cannot comply and the basis for any requested exemption.

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

**Attachment D**

**CITY OF BERKELEY**  
**Sanctuary City Compliance Statement**

The undersigned, an authorized agent of (hereafter "Contractor"), has had an opportunity to review the requirements of Berkeley Code Chapter 13.105 (hereafter "Sanctuary City Contracting Ordinance" or "SCCO"). Contractor understands and agrees that the City may choose with whom it will maintain business relations and may refrain from contracting with any person or entity that provides Data Broker or Extreme Vetting services to the U.S. Immigration and Customs Enforcement Division of the United States Department of Homeland Security ("ICE"). Contractor understands the meaning of the following terms used in the SCCO:

- a. "Data Broker" means either of the following:
  - i. The collection of information, including personal information about consumers, from a wide variety of sources for the purposes of reselling such information to their customers, which include both private-sector business and government agencies;
  - ii. The aggregation of data that was collected for another purpose from that for which it is ultimately used.
- b. "Extreme Vetting" means data mining, threat modeling, predictive risk analysis, or other similar services." Extreme Vetting does not include:
  - i. The City's computer-network health and performance tools;
  - ii. 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.

Contractor understands that it is not eligible to receive or retain a City contract if at the time the Contract is executed, or at any time during the term of the Contract, it provides Data Broker or Extreme Vetting services to ICE.

Contractor further understands and agrees that Contractor's failure to comply with the SCCO shall constitute a material default of the Contract and the City Manager may terminate the Contract and bar Contractor from bidding on future contracts with the City for five (5) years from the effective date of the contract termination.

By executing this Statement, Contractor certifies that it complies with the requirements of the SCCO and that if any time during the term of the Contract it ceases to comply, Contractor will promptly notify the City Manager in writing. Any person or entity who knowingly or willingly supplies false information in violation of the SCCO shall be guilty of a misdemeanor and up to a \$1,000 fine.

Based on the foregoing, the undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_, California.

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

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

Business Entity: \_\_\_\_\_



City of Berkeley

Solano Avenue Revitalization Plan

Contract Description/Specification No:

**Solano Avenue Revitalization Plan/ 20-11384-C**

Specification No. 20-11384-C

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Release Date 2/11/20

SCCO CompStmt (10/2019)

**Attachment E**

**CITY OF BERKELEY**  
**Living Wage Certification for Providers of Services**

**TO BE COMPLETED BY ALL PERSONS OR ENTITIES ENGAGING IN A CONTRACT FOR PERSONAL SERVICES WITH THE CITY OF BERKELEY.**

The Berkeley Municipal Code Chapter 13.27, Berkeley's Living Wage Ordinance (LWO), provides that contractors who engage in a specified amount of business with the City (except where specifically exempted) under contracts which furnish services to or for the City in any twelve (12) month period of time shall comply with all provisions of this Ordinance. The LWO requires a City contractor to provide City mandated minimum compensation to all eligible employees, as defined in the Ordinance. In order to determine whether this contract is subject to the terms of the LWO, please respond to the questions below. Please note that the LWO applies to those contracts where the contractor has achieved a cumulative dollar contracting amount with the City. Therefore, even if the LWO is inapplicable to this contract, subsequent contracts may be subject to compliance with the LWO. Furthermore, the contract may become subject to the LWO if the status of the Contractor's employees change (i.e. additional employees are hired) so that Contractor falls within the scope of the Ordinance.

**Section I.**

**1. IF YOU ARE A FOR-PROFIT BUSINESS, PLEASE ANSWER THE FOLLOWING QUESTIONS**

a. During the previous twelve (12) months, have you entered into contracts, including the present contract, bid, or proposal, with the City of Berkeley for a cumulative amount of \$25,000.00 or more?

YES \_\_\_\_\_ NO \_\_\_\_\_

If **no**, this contract is NOT subject to the requirements of the LWO, and you may continue to Section II. If **yes**, please continue to question **1(b)**.

b. Do you have six (6) or more employees, including part-time and stipend workers?

YES \_\_\_\_\_ NO \_\_\_\_\_

If you have answered, "YES" to questions 1(a) and 1(b) this contract IS subject to the LWO. If you responded "NO" to 1(b) this contract IS NOT subject to the LWO. **Please continue to Section II.**

**2. IF YOU ARE A NON-PROFIT BUSINESS, AS DEFINED BY SECTION 501(C) OF THE INTERNAL REVENUE CODE OF 1954, PLEASE ANSWER THE FOLLOWING QUESTIONS.**

a. During the previous twelve (12) months, have you entered into contracts, including the present contract, bid or proposal, with the City of Berkeley for a cumulative amount of \$100,000.00 or more?

YES \_\_\_\_\_ NO \_\_\_\_\_

If no, this Contract is NOT subject to the requirements of the LWO, and you may continue to Section II. If yes, please continue to question 2(b).

b. Do you have six (6) or more employees, including part-time and stipend workers?

YES \_\_\_\_\_ NO \_\_\_\_\_

If you have answered, "YES" to questions 2(a) and 2(b) this contract IS subject to the LWO. If you responded "NO" to 2(b) this contract IS NOT subject to the LWO. **Please continue to Section II.**

**Section II**

**Please read, complete, and sign the following:**

THIS CONTRACT IS SUBJECT TO THE LIVING WAGE ORDINANCE.

THIS CONTRACT IS NOT SUBJECT TO THE LIVING WAGE ORDINANCE.

**Attachment F** (page 1)

The undersigned, on behalf of himself or herself individually and on behalf of his or her business or organization, hereby certifies that he or she is fully aware of Berkeley's Living Wage Ordinance, and the applicability of the Living Wage Ordinance, and the applicability of the subject contract, as determined herein. The undersigned further agrees to be bound by all of the terms of the Living Wage Ordinance, as mandated in the Berkeley Municipal Code, Chapter 13.27. If, at any time during the term of the contract, the answers to the questions posed herein change so that Contractor would be subject to the LWO, Contractor will promptly notify the City Manager in writing. Contractor further understands and agrees that the failure to comply with the LWO, this certification, or the terms of the Contract as it applies to the LWO, shall constitute a default of the Contract and the City Manager may terminate the contract and bar Contractor from future contracts with the City for five (5) years from the effective date of the Contract termination. If the contractor is a for-profit business and the LWO is applicable to this contract, the contractor must pay a living wage to all employees who spend 25% or more of their compensated time engaged in work directly related to the contract with the City. If the contractor is a non-profit business and the LWO is applicable to this contract, the contractor must pay a living wage to all employees who spend 50% or more of their compensated time engaged in work directly related to the contract with the City.

These statements are made under penalty of perjury under the laws of the state of California.

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

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

Business Entity: \_\_\_\_\_

Contract Description/Specification No:  
**Solano Avenue Revitalization Plan/ 20-11384-C**

**Section III**

- 
- **\*\* FOR ADMINISTRATIVE USE ONLY -- PLEASE PRINT CLEARLY \*\*\***

I have reviewed this Living Wage Certification form, in addition to verifying Contractor's total dollar amount contract commitments with the City in the past twelve (12) months, and determined that this Contract IS / IS NOT (circle one) subject to Berkeley's Living Wage Ordinance.

\_\_\_\_\_  
Department Name

\_\_\_\_\_  
Department Representative

**Attachment F (page 2)**

City of Berkeley  
To be completed by  
Contractor/Vendor

ation Plan

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**Form EBO-1  
CITY OF BERKELEY**

**CERTIFICATION OF COMPLIANCE WITH EQUAL BENEFITS ORDINANCE**

If you are a **contractor**, return this form to the originating department/project manager. If you are a **vendor** (supplier of goods), return this form to the Purchasing Division of the Finance Dept.

**SECTION 1. CONTRACTOR/VENDOR INFORMATION**

Name:		Vendor No.:	
Address:	City:	State:	ZIP:
Contact Person:		Telephone:	
E-mail Address:		Fax No.:	

**SECTION 2. COMPLIANCE QUESTIONS**

- A. The EBO is inapplicable to this contract because the contractor/vendor has no employees.  
 Yes  No (If "Yes," proceed to Section 5; if "No," continue to the next question.)
- B. Does your company provide (or make available at the employees' expense) any employee benefits?  
 Yes  No  
If "Yes," continue to Question C.  
If "No," proceed to Section 5. (The EBO is not applicable to you.)
- C. Does your company provide (or make available at the employees' expense) any benefits to the spouse of an employee? .....  Yes  No
- D. Does your company provide (or make available at the employees' expense) any benefits to the domestic partner of an employee? .....  Yes  No

**If you answered "No" to both Questions C and D, proceed to Section 5. (The EBO is not applicable to this contract.) If you answered "Yes" to both Questions C and D, please continue to Question E.**

**If you answered "Yes" to Question C and "No" to Question D, please continue to Section 3.**

- E. Are the benefits that are available to the spouse of an employee identical to the benefits that are available to the domestic partner of the employee? .....  Yes  No

**If you answered "Yes," proceed to Section 4. (You are in compliance with the EBO.)**

**If you answered "No," continue to Section 3.**

**SECTION 3. PROVISIONAL COMPLIANCE**

- A. Contractor/vendor is not in compliance with the EBO now but will comply by the following date:
  - By the first effective date after the first open enrollment process following the contract start date, not to exceed two years, if the Contractor submits evidence of taking reasonable measures to comply with the EBO; or
  - At such time that administrative steps can be taken to incorporate nondiscrimination in benefits in the Contractor's infrastructure, not to exceed three months; or
  - Upon expiration of the contractor's current collective bargaining agreement(s).

**Attachment G (page 1)**



B. If you have taken all reasonable measures to comply with the EBO but are unable to do so, do you agree to provide employees with a cash equivalent?\* .....  Yes  No

\* The cash equivalent is the amount of money your company pays for spousal benefits that are unavailable for domestic partners.

**SECTION 4. REQUIRED DOCUMENTATION**

At time of issuance of purchase order or contract award, you may be required by the City to provide documentation (copy of employee handbook, eligibility statement from your plans, insurance provider statements, etc.) to verify that you do not discriminate in the provision of benefits.

**SECTION 5. CERTIFICATION**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I am authorized to bind this entity contractually. By signing this certification, I further agree to comply with all additional obligations of the Equal Benefits Ordinance that are set forth in the Berkeley Municipal Code and in the terms of the contract or purchase order with the City.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, at \_\_\_\_\_,  
\_\_\_\_\_  
(City) (State)

\_\_\_\_\_  
Name (please print)

Signature

\_\_\_\_\_  
Title

Federal ID or Social Security Number

<b><u>FOR CITY OF BERKELEY USE ONLY</u></b>			
<input type="checkbox"/> Non-Compliant (The City may not do business with this contractor/vendor)			
<input type="checkbox"/> One-Person Contractor/Vendor	<input type="checkbox"/> Full Compliance	<input type="checkbox"/> Reasonable Measures	
<input type="checkbox"/> Provisional Compliance	Category,	Full Compliance	by Date:
Staff Name( <i>Sign and Print</i> ):	_____		Date: _____

**Attachment G** (page 2)

**CITY OF BERKELEY**  
**Right to Audit Form**

The contractor agrees that pursuant to Section 61 of the Berkeley City Charter, the City Auditor's office may conduct an audit of Contractor's financial, performance and compliance records maintained in connection with the operations and services performed under this contract.

In the event of such audit, Contractor agrees to provide the Auditor with reasonable access to Contractor's employees and make all such financial, performance and compliance records available to the Auditor's office. City agrees to provide Contractor an opportunity to discuss and respond to/any findings before a final audit report is filed.

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

Print Name & Title: \_\_\_\_\_

Company: \_\_\_\_\_

Contract Description/Specification No:  
**Solano Avenue Revitalization Plan/ 20-11384-C**

Please direct questions regarding this form to the Auditor's Office, at (510) 981-6750.



**Attachment H**

**CITY OF BERKELEY**  
**Commercial General and Automobile Liability Endorsement**

The attached Certificates of Insurance are hereby certified to be a part of the following policies having the following expiration dates:

<b>Policy No.</b>	<b>Company Providing Policy</b>	<b>Expir. Date</b>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The scope of the insurance afforded by the policies designated in the attached certificates is not less than that which is afforded by the Insurance Service Organization's or other "Standard Provisions" forms in use by the insurance company in the territory in which coverage is afforded.

Such Policies provide for or are hereby amended to provide for the following:

1. The named insured is \_\_\_\_\_.
2. CITY OF BERKELEY ("City") is hereby included as an additional insured with respect to liability arising out of the hazards or operations under or in connection with the following agreement:  
\_\_\_\_\_.

The insurance provided applies as though separate policies are in effect for both the named insured and City, but does not increase the limits of liability set forth in said policies.

3. The limits of liability under the policies are not less than those shown on the certificate to which this endorsement is attached.
4. Cancellation or material reduction of this coverage will not be effective until thirty (30) days following written notice to \_\_\_\_\_, Department of \_\_\_\_\_, Berkeley, CA.
5. This insurance is primary and insurer is not entitled to any contribution from insurance in effect for City.

The term "City" includes successors and assigns of City and the officers, employees, agents and volunteers.

\_\_\_\_\_  
Insurance Company

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

By: \_\_\_\_\_  
Signature of Underwriter's  
Authorized Representative

City of Berkeley

Solano Avenue Revitalization Plan

Contract Description/Specification No:

**Solano Avenue Revitalization Plan/ 20-11384-C**

**Attachment I**

Specification No. 20-11384-C

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Release Date 2/11/20

**AGREEMENT FOR CONSULTING SERVICES**

This is an Agreement between the City of Berkeley, a Charter City organized and existing under the laws of the State of California ("City"), and \_\_\_\_\_ ("Consultant"), a California [corporation, partnership, joint venture], doing business at \_\_\_\_\_ who agree as follows:

**RECITALS**

WHEREAS, this Agreement sets forth the terms and conditions under which City shall obtain and Consultant will provide the services identified in Appendix "A" attached hereto;

Now, THEREFORE, City and Consultant agree as follows:

**1. DEFINITIONS**

1.1 Where any word or phrase defined below, or a pronoun in place thereof, is used in any part of this Agreement, it shall have the meaning herein set forth.

1.1.1 Agreement: This Agreement together with all attachments and appendices and other documents incorporated herein by reference.

1.1.2 Project: Total design of \_\_\_\_\_ of which the Work performed under this Agreement may be whole or part.

1.1.3 Project Manager: Person or persons designated by City and authorized to act on City's behalf with respect to this Agreement.

1.1.4 Work: The work described in Appendix A "Scope of Services", and made a part of this Agreement.

**2. TERM OF THIS AGREEMENT**

2.1 This Agreement shall begin on \_\_\_\_\_ and end on \_\_\_\_\_. The City Manager of the City or his/her designee may extend the term of this Agreement by giving written notice.

**3. SERVICES CONSULTANT AGREES TO PERFORM**

Consultant agrees to perform the services provided for in Appendix "A", as authorized from time to time by City in writing, in the manner provided in this Agreement. Time is of the essence in the performance of this Agreement.

**4. COMPENSATION**

4.1 Compensation shall be due Consultant according to the Compensation Schedule established in Appendix "B", "Compensation for Services," in a total amount not to exceed \$ \_\_\_\_\_. Consultant shall invoice its time at its ordinary billing rates.

- 4.2 City will not withhold the entire payment if a questioned amount is involved, but will issue payment in the amount of the total invoice less any questioned amount. Payment for questioned amount(s) will be made upon City's receipt of any requested documentation verifying the questioned amount(s) and City's determination that the questioned amount(s) is reimbursable under the terms of this Agreement.
- 4.3 Invoices furnished by Consultant under this Agreement must be in a form acceptable to City. All amounts paid by City to Consultant shall be subject to audit by City. Payment shall be made by City to Consultant at the address stated in Appendix "A".

## 5. QUALIFIED PERSONNEL; NO SUBCONSULTING

- 5.1 Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Consultant. Consultant will conform with City's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at City's request, shall be supervised by Consultant.
- 5.2 Consultant agrees that any personnel referred to in Appendix "A" will continue their assignments on the Project during the entire term of this Agreement, as described in Appendix "A."
- 5.3 Consultant is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is approved by City in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

## 6. REPRESENTATIONS

- 6.1 Consultant represents that it is qualified to perform the Work and that it possesses the necessary licenses and/or permits required to perform the Work or will obtain such licenses and/or permits prior to time such licenses and/or permits are required.
- 6.2 Consultant represents that the Work shall be performed in a professional manner and shall conform to the standards of practice observed on similar, successfully completed projects by specialists in the Work to be provided. Consultant agrees that, if the Work is not so performed, in addition to all of its obligations under this Agreement and at law, Consultant shall reperform or replace unsatisfactory Work at no additional expense to City.
- 6.3 The granting of any progress payment by City, or the receipt thereof by Consultant, or any inspection, review, approval or oral statement by any representative of City, or State certification, shall in no way waive or limit the certification obligations in this Paragraph or lessen the liability of Consultant to reperform or replace unsatisfactory Work, including but not limited to cases where the unsatisfactory character of such work may not have been apparent or detected at the time of such payment, inspection, review or approval.
- 6.4 Nothing in this Paragraph shall constitute a waiver or limitation of any right or remedy, whether in equity or at law, which City or Consultant may have under this Agreement or any applicable law. All rights and remedies of City, whether under this Agreement or other applicable law, shall be cumulative.

## 7. INDEMNIFICATION BY CONSULTANT

7.1 To the fullest extent permitted by law (including, without limitation, California Civil Code Sections 2782 and 2782.8), Consultant shall defend (with legal counsel reasonably acceptable to City), indemnify and hold harmless the City and its officers, agents, departments, officials, representatives and employees (collectively “**Indemnitees**”) from and against any and all claims, loss, cost, damage, injury (including, without limitation, injury to or death of an employee of Consultant or its Subconsultants), expense and liability of every kind, nature and description that arise out of, pertain to or relate to the negligence, recklessness, or willful misconduct of Consultant, any Subconsultant, anyone directly or indirectly employed by them, or anyone that they control (collectively “**Liabilities**”). Such obligations to defend, hold harmless and indemnify any Indemnitee shall not apply to the extent that such Liabilities are caused in whole or in part by the sole negligence, active negligence, or willful misconduct of such Indemnitee, but shall apply to all other Liabilities. With respect to third party claims against the Consultant, the Consultant waives any and all rights of any type of express or implied indemnity against the Indemnitees other than for Liabilities that are caused in whole or in part by the sole negligence, active negligence or willful misconduct of such Indemnitee.

## 8. LIABILITY OF CITY

8.1 Notwithstanding any other provision of this Agreement, in no event shall City be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement or the services performed in connection with this Agreement.

## 9. INDEPENDENT CONTRACTOR; PAYMENT OF TAXES AND OTHER EXPENSES

9.1 Consultant shall be deemed at all times to be an independent contractor and shall be wholly responsible for the manner in which Consultant performs the services required of Consultant by the terms of this Agreement. Consultant shall be liable for its acts and omissions, and those of its employees and its agents. Nothing contained herein shall be construed as creating an employment, agency or partnership relationship between City and Consultant.

9.2 Terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Consultant's Work only and not as to the means or methods by which such a result is obtained.

9.3 Except as expressly provided in this Agreement, nothing in this Agreement shall operate to confer rights or benefits on persons or entities not party to this Agreement.

9.4 Payment of any taxes, including California Sales and use Taxes, levied upon this Agreement, the transaction, or the services or goods delivered pursuant hereto, shall be the obligation of Consultant.

## 10. INSURANCE

10.1 Prior to the execution of this Agreement, Consultant shall furnish to City satisfactory proof that Consultant has taken out for the entire period covered by this Agreement, as further defined below, the following insurance in a form satisfactory to City and with an insurance carrier satisfactory to City, authorized to do business in California and rated by A. M. Best & Company A minus or better, financial category size seven (7) or better, which will protect those described below from claims described below which arise or are alleged to have arisen

out of or result from the services of Consultant for which Consultant may be legally liable, whether performed by Consultant, or by those employed directly or indirectly by it, or by anyone for whose acts Consultant may be liable:

- 10.1.1 Commercial general liability insurance, written on an "occurrence" basis, which shall provide coverage for bodily injury, death and property damage resulting from operations, products liability, blasting, explosion, collapse of buildings or structures, damage to underground structures and utilities, liability for slander, false arrest and invasion of privacy arising out of construction management operations, blanket contractual liability, broad form endorsement, a construction management endorsement, products and completed operations, personal and advertising liability, with per location limits of not less than \$2,000,000 general aggregate and \$2,000,000 each occurrence, subject to a deductible of not more than \$25,000 payable by Consultant.
  - 10.1.2 Business automobile liability insurance with limits not less than \$1,000,000 each occurrence including coverage for owned, non-owned and hired vehicles, subject to a deductible of not more than \$10,000 payable by Consultant.
  - 10.1.3 Full workers' compensation insurance for all persons whom Consultant may employ in carrying out Work contemplated under Contract, in accordance with Act of Legislature of State of California, known as "Workers' Compensation Insurance and Safety Act", approved May 26, 1913, and all Acts amendatory or supplemental thereto. Workers' compensation policy shall include Employer Liability Insurance with limits not less than \$1,000,000 each accident.
  - 10.1.4 Professional Liability Insurance, specific to this Project only, with limits not less than \$2,000,000 each claim with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Agreement, and any deductible not to exceed \$50,000 each claim, with no exclusion for claims of one insured against another insured.
- 10.2 Insurance policies shall contain an endorsement containing the following terms:
- 10.2.1 City, and its directors, officers, partners, representatives, employees, consultants, subconsultants and agents, shall be named as additional insureds, but only with respect to liability arising out of the activities of the named insured, and there shall be a waiver of subrogation as to each named and additional insured.
  - 10.2.2 The policies shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability.
  - 10.2.3 Written notice of cancellation, non-renewal or of any material change in the policies shall be mailed to City thirty (30) days in advance of the effective date thereof.
  - 10.2.4 Insurance shall be primary insurance and no other insurance or self insured retention carried or held by any named or additional insureds other than the Consultant shall be called upon to contribute to a loss covered by insurance for the named insured.

- 10.3 Certificates of Insurance and Endorsements shall have clearly typed thereon the title of the Contract, shall clearly describe the coverage and shall contain a provision requiring the giving of written notice described above in subparagraph 10.2.3.
- 10.4 At the time of making an application for an extension of time, Consultant shall submit evidence that insurance policies will be in effect during requested additional period of time.
- 10.5 Nothing herein contained shall be construed as limiting in any way the extent to which Consultant or any of its permitted subcontractors or subconsultants may be held responsible for payment of damages resulting from their operations.
- 10.6 If Consultant fails to maintain any required insurance, City may take out such insurance, and deduct and retain amount of premium from any sums due Consultant under this Agreement.
- 10.7 Consultant shall forward all insurance documents to, \_\_\_\_\_, Office of Capital Projects, 1947 Center Street, First Floor, Berkeley, CA 94704.

## 11. SUSPENSION OF WORK

City may, without cause, order Consultant, in writing, to suspend, delay or interrupt Work pursuant to this Agreement, in whole or in part, for such periods of time as City may determine, in its sole discretion. Suspension shall be effected by delivery to Consultant of a written notice of suspension specifying the extent to which performance of the Work under this Agreement is suspended, and the date upon which the suspension becomes effective, which shall be no less than seven (7) calendar days from the date the notice of suspension is delivered. Suspension of Work shall be treated as an excusable delay.

## 12. TERMINATION OF AGREEMENT FOR CAUSE

- 12.1 If at any time City believes Consultant may not be adequately performing its obligations under this Agreement or may fail to complete the Work as required by this Agreement, City may request from Consultant written assurances of performance and a written plan to correct observed deficiencies in Consultant's performance if written notice of the same is provided by City. Failure to provide written assurances constitutes grounds to declare a default under this Agreement.
- 12.2 Consultant shall be in default of this Agreement and City may, in addition to any other legal or equitable remedies available to City, terminate Consultant's right to proceed under the Agreement, for cause, should Consultant commit a breach of this Agreement and not cure such breach within ten (10) calendar days of the date of notice from City to Consultant demanding such cure; or, if such failure is curable but not curable within such ten (10) day period, within such period of time as is reasonably necessary to accomplish such cure. (In order for Consultant to avail itself of this time period in excess of 10 calendar days, Consultant must provide City within the 10 day period a written plan acceptable to City to cure said breach, and then diligently commence and continue such cure according to the written plan.)
- 12.3 In the event a termination for cause is determined to have been made wrongfully or without cause, then the termination shall be treated as a termination for convenience, and Consultant shall have no greater rights than it would have had if a termination for convenience had been effected in the first instance. No other loss, cost, damage, expense or liability may be claimed, requested or recovered.



13. TERMINATION OF AGREEMENT FOR CONVENIENCE

13.1 City may terminate performance of the Work under the Agreement in accordance with this Paragraph in whole, or from time to time in part, whenever City shall determine that termination is in the best interest of City. Termination shall be effected by delivery to Consultant of notice of termination specifying the extent to which performance of the Work under the Agreement is terminated, and the date upon which termination becomes effective, which shall be no less than twenty-one (21) calendar days from the date the notice of termination is delivered. Consultant shall then be entitled to recover its costs expended up to that point plus a reasonable profit, but no other loss, cost, damage, expense or liability may be claimed, requested or recovered.

13.2 Except as provided in this Agreement, in no event shall City be liable for costs incurred by or on behalf of Consultant after the effective date of a notice of termination.

13.3 Termination under this provision shall not be construed as a waiver of any right or remedy otherwise available to City.

14. PROPRIETARY OR CONFIDENTIAL INFORMATION OF CITY

Consultant understands and agrees that, in the performance of the services under this Agreement or in the contemplation thereof, Consultant may have access to private or confidential information that may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Consultant agrees that all information disclosed by City to Consultant shall be held in confidence and used only in performance of the Agreement. Consultant shall exercise the same standard of care to protect such information as a reasonably prudent consultant would use to protect its own proprietary data.

15. NOTICES TO THE PARTIES

All notices to be given by the parties hereto shall be in writing and effective when served by depositing same in the United States Post Office, postage prepaid and addressed as follows:

To City:

To Consultant:

## 16. OWNERSHIP OF RESULTS/WORKS FOR HIRE

- 16.1 When this Agreement is terminated, Consultant agrees to return to City all documents, drawings, photographs and other written or graphic material, however produced, that it received from City, its contractors or agents, in connection with the performance of its services under this Agreement. All materials shall be returned in the same condition as received.
- 16.2 Any interest of Consultant or its subcontractors or subconsultants, in studies, reports, memoranda, computational sheets or other documents prepared by Consultant or its subcontractors or subconsultants in connection with services to be performed under this Agreement shall become the property of City. Consultant may, however, retain one copy for its files.
- 16.3 Any and all work, artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, designs, specifications, drawings, diagrams, surveys, source codes or any original works of authorship created by Consultant or its subcontractors or subconsultants in connection with services performed under this Agreement shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of City. In the event that it is ever determined that any such works created by Consultant or its subcontractors or subconsultants under this Agreement are not works for hire under U.S. law, Consultant hereby assigns all copyrights to such works to City. With the prior written approval of City's Project Manager, Consultant may retain and use copies of such works for reference and as documentation of its experience and capabilities.

## 17. AUDIT AND INSPECTION OF RECORDS

- 17.1 Consultant shall maintain all drawings, specifications, calculations, cost estimates, quantity takeoffs, statements of costs and completion dates, schedules and all correspondence, internal memoranda, papers, writings, and documents of any sort prepared by or furnished to Consultant during the course of performing the Work and providing services with respect to the Project, for a period of at least three (3) years following final completion and acceptance of the Project, except that all such items pertaining to hazardous materials shall be maintained for at least thirty (30) years. All such records shall be available to City upon request at reasonable times and places. Monthly records of Consultant's personnel costs, consultant costs, and reimbursable expenses shall be kept on a generally recognized accounting basis, and shall be available to City upon request at reasonable times and places. Consultant shall not destroy any Project records until after advising City and allowing City to accept and store the records.
- 17.2 Consultant agrees to maintain and make available to City during business hours accurate books and accounting records relative to its activities under this Agreement. Consultant shall permit City to audit, examine and make copies, excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Consultant shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject of this Agreement shall have the same rights conferred upon City by this Paragraph.

- 17.3 The rights and obligations established pursuant to this Paragraph shall be specifically enforceable and survive termination of this Agreement.

## 18. DISPUTES

- 18.1 Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to the City's Project Manager and a principal of the Consultant who shall decide the true meaning and intent of the Agreement. Such referral may be initiated by written request from either party and a meeting between the City's Project Manager and principal of the Consultant shall take place within five days of the request.
- 18.2 Consultant shall continue its Work throughout the course of any and all disputes, and Consultant's failure to continue work during any and all disputes shall be considered a material breach of this Agreement, provided City continues to make payment to Consultant for undisputed work completed by Consultant. Consultant further agrees that should Consultant stop work due to a dispute or disputes, any and all claims, whether in law or in equity Consultant may have against City, their officers, agents, representatives, and employees, whether such claims are pending, anticipated or otherwise, shall be deemed to have been waived and forever barred.

## 19. AGREEMENT MADE IN CALIFORNIA/VENUE

- 19.1 This Agreement shall be deemed to have been executed in Alameda County. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California, excluding its conflict of laws rules. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in Alameda County, California.
- 19.2 This Agreement shall be executed in duplicate. One duplicate original shall be retained by City and one duplicate original shall be given to Consultant.

## 20. CONFORMITY WITH LAW AND SAFETY

- 20.1 Consultant shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal and local governing bodies having jurisdiction over any or all of the scope of services, including all provisions of the Occupational Safety and Health Act of 1979 as amended, all California Occupational Safety and Health Regulations, the California Building Code, the American with Disabilities Act, any copyright, patent or trademark law and all other applicable federal, state, municipal and local safety regulations. All services performed by Consultant must be in accordance with these laws, ordinances, codes and regulations. Consultant's failure to comply with any laws, ordinances, codes or regulations applicable to the performance of the work hereunder shall constitute a breach of contract.
- 20.2 If a death, serious personal injury or substantial property damage occurs in connection with the performance of this Contract, Consultant shall immediately notify the City's Risk Manager by telephone. If any accident occurs in connection with this Contract, Consultant shall promptly submit a written report to City, in such form as the City may require. This report shall include the following information: 1) name and address of the injured or deceased person(s); 2) name and address of Consultant's subcontractor or subconsultant, if any; 3) name

and address of Consultant's liability insurance carrier; and 4) a detailed description of the accident, including whether any of City's equipment, tools or materials were involved.

- 20.3 If a release of hazardous materials or hazardous waste that cannot be controlled occurs in connection with the performance of this Contract, Consultant shall immediately notify the Berkeley Police Department and the City's Health Protection office.
- 20.4 Consultant shall not store hazardous materials or hazardous waste within the City of Berkeley without a proper permit from the City.

## 21. MATERIAL SAFETY DATA SHEETS

- 21.1 To comply with the City's Hazardous Communication Program, Consultant agrees to submit Material Safety Data Sheets (MSDS) for all "hazardous substances" Consultant intends to use in the performance of work under this Contract in any City facility. "Hazardous substances" are defined as those substances so designated by the Director of Industrial Relations pursuant to the Hazardous Substances Information and Training Act (Labor Code sec. 6360 *et seq.*). The MSDS for all products must be submitted to the City before commencing work. The MSDS for a particular product must be reviewed and approved by the City's Risk Manager before Consultant may use that product.

21.2 City will inform Consultant about hazardous substances to which it may be exposed while on the job site and protective measures that can be taken to reduce the possibility of exposure.

## 22. NON-DISCRIMINATION

Consultant hereby agrees to comply with the provisions of Berkeley Municipal Code ("B.M.C.") Chapter 13.26 as amended from time to time. In the performance of this Contract, Consultant agrees as follows:

22.1 Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age (over 40), sex, pregnancy, marital status, disability, sexual orientation or AIDS.

22.2 Consultant shall permit the City access to records of employment, employment advertisements, application forms, EEO-1 forms, affirmative action plans and any other documents which, in the opinion of the City, are necessary to monitor compliance with this non-discrimination provision. In addition, Consultant shall fill-out, in a timely fashion, forms supplied by the City to monitor this non-discrimination provision.

## 23. CONFLICT OF INTEREST PROHIBITED

23.1 In accordance with Government Code section 1090, Berkeley City Charter section 36 and B.M.C. Chapter 3.64, neither Consultant nor any employee, officer, director, partner or member of Consultant, or immediate family member of any of the preceding, shall have served as an elected officer, an employee, or a City board, committee or commission member, who has directly or indirectly influenced the making of this Contract.

23.2 In accordance with Government Code section 1090 and the Political Reform Act, Government Code section 87100 *et seq.*, no person who is a director, officer, partner, trustee, employee or consultant of the Consultant, or immediate family member of any of the preceding, shall make or participate in a decision made by the City or a City board, commission or committee, if it is reasonably foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or Consultant.

23.3 Interpretation of this section shall be governed by the definitions and provisions used in the Political Reform Act, Government Code section 87100 *et seq.*, its implementing regulations, manuals and codes, Government Code section 1090, Berkeley City Charter section 36 and B.M.C. Chapter 3.64.

## 24. NUCLEAR FREE BERKELEY

Consultant agrees to comply with B.M.C. Chapter 12.90, the Nuclear Free Berkeley Act, as amended from time to time.

## 25. OPPRESSIVE STATES CONTRACTING PROHIBITION

25.1 In accordance with Resolution No. 59,853-N.S., Consultant certifies that it has no contractual relations with, and agrees during the term of this Contract to forego contractual relations to provide personal services to, the following entities:

- (1) The governing regime in any Oppressive State.
- (2) Any business or corporation organized under the authority of the governing regime of any Oppressive State.
- (3) Any individual, firm, partnership, corporation, association, or any other commercial organization, including parent-entities and wholly-owned subsidiaries (to the extent that their operations are related to the purpose of its contract with the City), for the express purpose of

assisting in business operations or trading with any public or private entity located in any Oppressive State.

25.2 Appendix A to Resolution No. 59,853-N.S. designates the following as Oppressive States for the purposes of this contract: Tibet Autonomous Region and the provinces of Abo, Kham, and Ü-Tsang.

25.3 Consultant's failure to comply with this section shall constitute a default of this Contract and City may terminate this Contract pursuant to Section 12. In the event that the City terminates Consultant due to a default under this provision, City may deem Consultant a non-responsible bidder for five (5) years from the date this Contract is terminated.

## 26. RECYCLED PAPER FOR WRITTEN REPORTS

If Consultant is required by this Contract to prepare a written report or study, Consultant shall use recycled paper for said report or study when such paper is available at a cost of not more than ten percent more than the cost of virgin paper, and when such paper is available at the time it is needed. For the purposes of this Contract, recycled paper is paper that contains at least 50% recycled product. If recycled paper is not available, Consultant shall use white paper. Written reports or studies prepared under this Contract shall be printed on both sides of the paper whenever practical.

## 27. BERKELEY LIVING WAGE ORDINANCE

27.1. Consultant hereby agrees to comply with the provisions of the Berkeley Living Wage Ordinance, B.M.C. Chapter 13.27. If Consultant is currently subject to the Berkeley Living Wage Ordinance, as indicated by the Living Wage Certification form, attached hereto, Consultant will be required to provide all eligible employees with City mandated minimum compensation during the term of this Contract, as defined in B.M.C. Chapter 13.27, as well as comply with the terms enumerated herein. Consultant expressly acknowledges that, even if Consultant is not currently subject to the Living Wage Ordinance, cumulative contracts with City may subject Consultant to the requirements under B.M.C. Chapter 13.27 in subsequent contracts.

27.2. If Consultant is currently subject to the Berkeley Living Wage Ordinance, Consultant shall be required to maintain monthly records of those employees providing service under the Contract. These records shall include the total number of hours worked, the number of hours spent providing service under this Contract, the hourly rate paid, and the amount paid by Consultant for health benefits, if any, for each of its employees providing services under the Contract. Consultant agrees to supply City with any records it deems necessary to determine compliance with this provision. These records are expressly subject to the auditing terms described in Section 17.

27.3. If Consultant is currently subject to the Berkeley Living Wage Ordinance, Consultant shall include the requirements thereof, as defined in B.M.C. Chapter 13.27, in any and all subcontracts in which Consultant engages to execute its responsibilities under this Contract. All subcontractor or subconsultant employees who spend 25% or more of their compensated time engaged in work directly related to this Contract shall be entitled to a living wage, as described in B.M.C. Chapter 13.27 and herein.

27.4. If Consultant fails to comply with the requirements of this Section, the City shall have the rights and remedies described in this Section, in addition to any rights and remedies provided by law or equity.

27.5. Consultant's failure to comply with this Section shall constitute a material breach of the Contract, upon which City may terminate this Contract pursuant to Section 12. In the event that City terminates Consultant due to a default under this provision, City may deem Consultant a non-responsible bidder for not more than five (5) years from the date this Contract is terminated.

In addition, at City's sole discretion, Consultant may be responsible for liquidated damage in the amount of \$50 per employee per day for each and every instance of an underpayment to an employee. It is mutually understood and agreed that Consultant's failure to pay any of its eligible employees at least the applicable living wage rate will result in damages being sustained by the City; that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damage set forth herein is the nearest and most exact measure of damage for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty of forfeiture for Consultant's breach. City may deduct any assessed liquidated damages from any payments otherwise due Consultant.

## 28. BERKELEY EQUAL BENEFITS ORDINANCE

28.1. Consultant hereby agrees to comply with the provisions of the Berkeley Equal Benefits Ordinance, B.M.C. Chapter 13.29. If Consultant is currently subject to the Berkeley Equal Benefits Ordinance, as indicated by the Equal Benefits Certification form, attached hereto, Consultant will be required to provide all eligible employees with City mandated equal benefits, as defined in B.M.C. Chapter 13.29, during the term of this contract, as well as comply with the terms enumerated herein.

28.2. If Consultant is currently or becomes subject to the Berkeley Equal Benefits Ordinance, Consultant agrees to provide the City with all records the City deems necessary to determine compliance with this provision. These records are expressly subject to the auditing terms described in Section 17 of this contract.

28.3. If Consultant fails to comply with the requirements of this Section, City shall have the rights and remedies described in this Section, in addition to any rights and remedies provided by law or equity.

28.4. Consultant's failure to comply with this Section shall constitute a material breach of the Contract, upon which City may terminate this contract pursuant to Sections 12. In the event the City terminates this contract due to a default by Consultant under this provision, the City may deem Consultant a non-responsible bidder for not more than five (5) years from the date this Contract is terminated.

In addition, at City's sole discretion, Consultant may be responsible for liquidated damages in the amount of \$50.00 per employee per day for each and every instance of violation of this Section. It is mutually understood and agreed that Consultant's failure to provide its employees with equal benefits will result in damages being sustained by City; that the nature and amount of these damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein is the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty or forfeiture for Consultant's breach. City may deduct any assessed liquidated damages from any payments otherwise due Consultant.

## 29. PREVAILING WAGES

Certain labor categories under this contract may be subject to prevailing wages as identified in the State of California Labor Code commencing with Sections 1720 et. seq. and 1770 et. seq. These labor categories, when employed for any "work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work," constitute a "Public Work" within the definition of Section 1720(a)(1) of the California Labor Code requiring payment of prevailing wages. In performing its obligations under this contract, Consultant is solely responsible to determine which, if any, of the work is governed by a labor category pursuant to California Labor Code sections 1720 et. seq. and 1770 et. seq. and pay the pertinent prevailing wage. Consultant shall defend, indemnify and hold harmless City concerning any liability arising out of Labor Code section 1720 et. seq. and 1770 et. seq.

30. SETOFF AGAINST DEBTS

Consultant agrees that City may deduct from any payments due to Consultant under this Contract any monies that consultant owes City under any ordinance, contract or resolution for any unpaid taxes, fees, licenses, unpaid checks or other amounts.

31. CONSULTANTS TO SUBMIT STATEMENTS OF ECONOMIC INTEREST

The City's Conflict of Interest Code, Resolution No. 60,788-N.S., as amended, requires consultants who make a governmental decision or act in a staff capacity as defined in 2 Cal. Code of Regs. § 18700, as amended from time to time, to disclose conflicts of interest by filing a Statement of Economic Interest (Form 700). Consultants agree to file such statements with the City Clerk at the beginning of the contract period and upon termination of the Consultant's service.

32. CITY BUSINESS LICENSE, PAYMENT OF TAXES, TAX I.D. NUMBER

Consultant has obtained a City business license as required by B.M.C. Chapter 9.04, and its license number is written below; or, Consultant is exempt from the provisions of B.M.C. Chapter 9.04 and has written below the specific B.M.C. section under which it is exempt. Consultant shall pay all state and federal income taxes and any other taxes due. **Consultant certifies under penalty of perjury that the taxpayer identification number written below is correct.**

33. MISCELLANEOUS

33.1 The Agreement, and any written modification to the Agreement, shall represent the entire and integrated Agreement between the parties hereto regarding the subject matter of this Agreement and shall constitute the exclusive statement of the terms of the parties' Agreement. The Agreement, and any written modification to the Agreement, shall supersede any and all prior negotiations, representations or agreements, either written or oral, express or implied, that relate in any way to the subject matter of this Agreement or written modification, and the parties represent and agree that they are entering into this Agreement and any subsequent written modification in sole reliance upon the information set forth in the Agreement or written modification and the parties are not and will not rely on any other information.

33.2 Either party's waiver of any breach, or the omission or failure of either party, at any time, to enforce any right reserved to it, or to require performance of any of the terms, covenants, conditions or other provisions of this Agreement, including the timing of any such performance, shall not be a waiver of any other right to which any party is entitled, and shall not in any way affect, limit, modify or waive that party's right thereafter to enforce or compel strict compliance with every term, covenant, condition or other provision hereof, any course of dealing or custom of the trade or oral representations notwithstanding. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved by fully authorized representatives of City and the Consultant.

33.3 As between the parties to this Agreement: as to all acts or failures to act by either party to this Agreement, any applicable statute of limitations shall commence to run on the date of issuance by City's Project Manager of the final Certificate for Payment, or termination of this Agreement, whichever is earlier, except for latent defects, for which the statute of limitation shall begin running upon discovery of the defect and its cause.

33.4 Any provisions or portions thereof of this Agreement prohibited by, or made unlawful or unenforceable under any applicable law of any jurisdiction, shall as to such jurisdiction be ineffective



without affecting other provisions or portions thereof of this Agreement. If the provisions of such applicable law may be waived, they are hereby waived to the end that this Agreement may be deemed to be a valid and binding agreement enforceable in accordance with its terms. If any provisions or portion thereof of this Agreement are prohibited by, or made unlawful or unenforceable under any applicable law and are therefore stricken or deemed waived, the remainder of this Agreement shall be interpreted to achieve the goals or intent of the stricken or waived provisions or portions thereof to the extent such interpretation is consistent with applicable law.

34. SEVERABILITY

34.1 If any part of this Agreement or the application thereof is declared invalid for any reason, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are declared to be severable.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day first mentioned above.

THE CITY OF BERKELEY

By: \_\_\_\_\_  
CITY MANAGER

Registered by:

Pre-approved as to form:  
CITY ATTORNEY  
2/2015

\_\_\_\_\_  
CITY AUDITOR

Attest:

CITY CLERK

[ CONSULTANT NAME ]

By: \_\_\_\_\_

Printed name and title of signatory, if different from consultant name

Taxpayer Identification No.

Berkeley Business License No.

Incorporated: Yes \_\_\_\_\_ No \_\_\_\_\_

Certified Woman Business Enterprise: Yes \_\_\_\_\_ No \_\_\_\_\_

Certified Minority Business Enterprise: Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, state ethnicity: \_\_\_\_\_

Certified Disadvantaged Business Enterprise: Yes \_\_\_\_\_ No \_\_\_\_\_

**SOPHIE HAHN**

Berkeley City Council, District 5  
 2180 Milvia Street, 5th Floor  
 Berkeley, CA 94704  
 (510) 981-7150  
 shahn@cityofberkeley.info

CONSENT CALENDAR  
 April 20, 2021

To: Honorable Members of the City Council  
 From: Vice Mayor Sophie Hahn (Author)  
 Subject: Personal Liability Protection for Small Businesses Impacted by COVID-19

RECOMMENDATION

1. Adopt an urgency ordinance adding Berkeley Municipal Code (BMC) Chapter 13.113, relating to personal liability in commercial leases during the COVID-19 pandemic; declaring the urgency thereof; and declaring that this ordinance shall take effect immediately, in order to protect the health, safety, and economic wellbeing of the people of Berkeley.
2. Direct the City Manager to conduct outreach to all commercial tenants regarding any protections enacted by the City Council, with a particular focus on businesses that were required to stop serving food or beverages (e.g., restaurants, bars); close to the public (e.g., hair salons, barbershops, tattoo parlors); cease operations (e.g., gyms, fitness centers); or sharply limit operations (e.g., schools, retail shops, nurseries) due to the COVID-19 crisis.

SUMMARY

On December 1, 2020, the Council passed a measure directing the City Manager and City Attorney to draft and submit to the City Council for consideration an emergency ordinance to prohibit the enforcement of personal liability provisions in commercial leases and commercial rental agreements in the City of Berkeley for lessees/renters who have experienced financial impacts related to the Covid-19 pandemic.<sup>1</sup>

The measure was put forward in response to the pronounced impact that health orders issued in Berkeley and throughout the Bay Area have had upon small businesses who have been forced to close or drastically reduce services and/or customer capacity in order to protect the health, safety, and economic wellbeing of the people of Berkeley. The restrictions set forth in these public health orders have had lasting impacts upon many businesses in Berkeley. Moreover, mandatory statewide industry guidance has forced many businesses to remain closed or to operate at extremely limited capacities. Eviction protections authorized by the Governor and by the City of Berkeley have not prevented many local businesses from being forced to permanently close, and many

<sup>1</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/12\\_Dec/City\\_Council\\_12-01-2020\\_-\\_Regular\\_Meeting\\_Agenda.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/12_Dec/City_Council_12-01-2020_-_Regular_Meeting_Agenda.aspx)

other local businesses that remain open have been forced to default on their rent obligations and cannot hope to completely pay back what they owe in the foreseeable future.

Berkeley has come together as a community to share the burdens imposed by the COVID-19 pandemic, but many small business owners remain in desperately precarious financial circumstances. Some of these individuals have personally guaranteed their businesses' lease obligations, making them personally responsible for unpaid rent, utilities, or taxes in the event the business fails. These valued community members should be able to make sound business decisions and live without the fear that the pandemic will cost them not only their customers and revenues but also their personal assets and homes.

This item puts forward an urgency ordinance prepared by the City Attorney, and includes information on the economic impact of the COVID-19 pandemic, and on the continuing risks faced by Berkeley's small businesses and small business owners.

## BACKGROUND

### **Economic Impact of the COVID-19 Shutdown**

Due to the rapidly spreading COVID-19 virus, on March 17, 2020, the City of Berkeley, along with the health officers of six Bay Area counties, issued orders for residents to stay at home and for all but a few essential businesses to cease operations.<sup>2</sup> Recommendations by the City's Public Health Officer issued included social distancing, staying home if sick, canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of COVID-19. People in Berkeley were prohibited from a wide variety of activities, including dining in at a restaurant, going to a bar, concert, or movie, getting a haircut, massage, or tattoo, or working out at a gym.<sup>3</sup>

The halting of economic activity had widespread impacts on the Berkeley economy, resulting in significant revenue reductions and job losses in a variety of sectors, including retail, hospitality, and the performing arts.<sup>4</sup> In late April 2020, a poll of small businesses found the pandemic was already taking a steep toll.<sup>5</sup> More than two-fifths of the businesses surveyed expected greater than 80% revenue loss over the three months from when the pandemic began impacting the community. More than half (56%)

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<sup>2</sup> [https://www.cityofberkeley.info/City\\_Manager/Press\\_Releases/2020/2020-03-16-health-officers-order-residents-to-stay-home/](https://www.cityofberkeley.info/City_Manager/Press_Releases/2020/2020-03-16-health-officers-order-residents-to-stay-home/)

<sup>3</sup> [https://www.cityofberkeley.info/City\\_Manager/Press\\_Releases/2020/2020-03-19\\_Stay\\_home\\_to\\_protect\\_our\\_community\\_especially\\_the\\_vulnerable.aspx](https://www.cityofberkeley.info/City_Manager/Press_Releases/2020/2020-03-19_Stay_home_to_protect_our_community_especially_the_vulnerable.aspx)

<sup>4</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2021/03\\_Mar/Documents/2021-03-09\\_Item\\_26\\_Berkeley\\_Economic\\_Dashboards\\_Update.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/03_Mar/Documents/2021-03-09_Item_26_Berkeley_Economic_Dashboards_Update.aspx)

<sup>5</sup> Most of the Berkeley respondents were small businesses: 97% had less than 10 employees; more than 40% were sole proprietors; 22% were minority-owned; 46% were woman-owned.

expected to close permanently if they had to stay closed for 3-4 months. More than a third “shifted to online sales or virtual services”, and 33% “reduced salaries or staff hours” to avoid business closure.

The COVID-19 pandemic left thousands unemployed in key Berkeley industry sectors. As the county-wide unemployment rate nearly tripled, job losses were most significant in Berkeley sectors like tourism and hospitality (especially lodging, food and beverage, and arts and cultural industries); retail (especially clothing and accessories); personal and professional service industries (e.g. gyms and fitness studios, salons, employment services), and others.<sup>6</sup>

In 2020, Berkeley hospitality industries suffered deeply from COVID-19 and related health orders.<sup>7</sup> 100% of meetings, conferences and events were cancelled indefinitely. 90% of Berkeley hotel employees were laid off or furloughed from March to October, as approximately 75% of Berkeley hotel rooms were temporarily closed during that period. Lodging tax revenues declined by 70% (a loss of \$4.7 million) year-over year from March to November.

With regard to food and beverages services, health orders banned indoor dining for more than three-quarters of 2020 forcing restaurants to earn revenues through delivery and takeout services, catering, outdoor dining, and new business models.<sup>8</sup> More than 40 Berkeley restaurants and bars closed forever, with the greatest number of closures in Downtown Berkeley and the Telegraph district, both near UC Berkeley’s campus.

### **Importance of Berkeley’s Small Businesses**

Small businesses are the heart and soul of Berkeley. As of 2019, there were approximately 5,000 small businesses in Berkeley, accounting for approximately 40% of the jobs in the City.<sup>9</sup> Small businesses offer high quality goods and services that reflect the community’s eclectic tastes and are infused with the care and expression of their owners. Berkeley’s unique and distinctive small businesses link neighbors in economic and social relationships, binding the community together.

Small businesses are a critical part of Berkeley’s local economy, providing access to essential goods and services, and creating jobs and economic opportunities. The fiscal

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<sup>6</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2021/03\\_Mar/Documents/2021-03-09\\_Item\\_26\\_Berkeley\\_Economic\\_Dashboards\\_Update.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/03_Mar/Documents/2021-03-09_Item_26_Berkeley_Economic_Dashboards_Update.aspx)

<sup>7</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2021/03\\_Mar/Documents/2021-03-09\\_Item\\_26\\_Berkeley\\_Economic\\_Dashboards\\_Update.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/03_Mar/Documents/2021-03-09_Item_26_Berkeley_Economic_Dashboards_Update.aspx)

<sup>8</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2021/03\\_Mar/Documents/2021-03-09\\_Item\\_26\\_Berkeley\\_Economic\\_Dashboards\\_Update.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/03_Mar/Documents/2021-03-09_Item_26_Berkeley_Economic_Dashboards_Update.aspx)

<sup>9</sup> [https://www.cityofberkeley.info/uploadedFiles/Manager/Economic\\_Development/2019-02-05%20WS%20Item%2002%20Referral%20Response%20Small%20Business.pdf](https://www.cityofberkeley.info/uploadedFiles/Manager/Economic_Development/2019-02-05%20WS%20Item%2002%20Referral%20Response%20Small%20Business.pdf);  
[https://www.cityofberkeley.info/uploadedFiles/Manager/Economic\\_Development/Attachment3\\_DemographicandEconomicProfile.pdf](https://www.cityofberkeley.info/uploadedFiles/Manager/Economic_Development/Attachment3_DemographicandEconomicProfile.pdf)

impact of businesses to the City of Berkeley is substantial; roughly a quarter of the City's general fund revenues are generated by business-related taxes.<sup>10</sup> Of these revenues, approximately 11% is derived from business license fees, 5% from the transit occupancy tax (TOT) or hotel tax, and 10% from sales tax. In California, small businesses account for nearly two-thirds of new jobs.<sup>11</sup>

Small businesses invest a significant share of their revenues back into the local economy.<sup>12</sup> A report by the consulting firm Civic Economics found that local businesses recirculate 45% of their revenues locally, compared to 17% recirculated locally by national corporations.<sup>13</sup> Local businesses thus have a significant economic multiplier effect, re-circulating dollars that boost local economic activity, employ more local workers, and generate multiple layers of economic activity, and tax revenue, for Berkeley.

In addition to economic impacts, small local businesses impact the people of Berkeley's perception of well being. Vibrant commercial corridors give life to the community, attracting people to eat and drink at cafes and restaurants, shop at local retail stores, and enjoy entertainment and recreation. Conversely, shuttered businesses and empty storefronts have a negative impact on the City. Commercial vacancies can have a contagious effect, and are linked to reduced property values, increased fire risk, elevated crime, and negative health impacts.<sup>14</sup>

### **The City of Berkeley's Response to the COVID-19 Emergency**

In March 2020, several Berkeley business associations wrote to the City Council regarding the impact of the COVID-19 outbreak, noting that many of Berkeley's small businesses had "already seen a 25-75% drop in gross receipts since the COVID-19 outbreak as compared to this time last year."<sup>15</sup> The groups continued:

The situation is quickly going from bad to worse, with many of our arts and entertainment venues having closed or likely needing to close soon. Many small businesses, nonprofits, arts organizations, and other businesses do not have a cushion in their budget to weather this type of pandemic. It is incumbent upon the City of Berkeley to do what is necessary to help these businesses survive the economic impact of this unprecedented crisis.

<sup>10</sup> [https://www.cityofberkeley.info/uploadedFiles/Manager/Economic\\_Development/2019-02-05%20WS%20Item%2002%20Referral%20Response%20Small%20Business.pdf](https://www.cityofberkeley.info/uploadedFiles/Manager/Economic_Development/2019-02-05%20WS%20Item%2002%20Referral%20Response%20Small%20Business.pdf)

<sup>11</sup> <https://cdn.advocacy.sba.gov/wp-content/uploads/2020/06/04142955/2020-Small-Business-Economic-Profile-CA.pdf>; <https://www.dir.ca.gov/smallbusiness/index.htm>

<sup>12</sup> <https://ilsr.org/why-support-locally-owned-businesses/>

<sup>13</sup>

<http://nebula.wsimg.com/31f003d5633c543438ef0a5ca8e8289f?AccessKeyId=8E410A17553441C49302&disposition=0&alloworigin=1>

<sup>14</sup> <https://www.urban.org/urban-wire/local-policies-can-protect-commercial-corridors-pandemic-continues>

<sup>15</sup> March 13, 2020, Letter from the Berkeley Chamber, Downtown Berkeley Association, Telegraph Business Improvement District and Visit Berkeley

As a result of the State of Emergency and the government-recommended precautions by federal, state and local officials, many commercial and residential tenants experienced sudden income loss, and ongoing economic impacts, leaving residential and commercial tenants vulnerable to eviction. Tenants who contracted COVID-19 were required to self-quarantine, which required time away from work. In the interests of protecting public health and preventing transmission of the COVID-19, it was essential for Berkeley to avoid unnecessary displacement and homelessness.

The City Council therefore acted quickly to protect the health, safety, and economic wellbeing of the people of Berkeley, enacting a robust suite of measures to provide support to Berkeley small businesses, nonprofits, and arts organizations, and to create protections for commercial and residential tenants.

On March 17, 2020, the City Council adopted a measure creating a tax-exempt relief fund to provide gap resources to small businesses, arts organizations, and others significantly impacted by the COVID-19 emergency.<sup>16</sup> Thanks to the generosity of the community and \$3 million approved by the Berkeley City Council over \$4.5 million was distributed to qualified organizations by the Office of Economic Development (OED) during the first year of the program.<sup>17</sup> The City's Economic Development staff worked quickly to support businesses and organizations in many other ways, including to ensure access to resources made available by the state and federal governments.

In addition, the City Council directed the City Manager to identify additional funding and increase the allocation to the Flexible Housing Pool, administered by Bay Area Community Services (BACS), and amend the contract and program guidelines if necessary, to provide emergency rental assistance and flexible funding for housing, and to report back to Council on the funding allocated and outcomes.<sup>18</sup>

The City Council also approved an urgency ordinance to provide protections to residential tenants, commercial tenants, and individuals in default of mortgage payments during the declared state of emergency to preserve the health and safety of the Berkeley community.<sup>19</sup> The ordinance prohibited evictions for non-payment of rent for tenants, and for those in default, and prohibited no-fault evictions, except for those necessary for public safety and permitted under the state Ellis Act, if the occupant demonstrated that the inability to pay was due to COVID-19, the state of emergency, or government-recommended coronavirus precautions. The ordinance allowed a landlord to collect back rent due and included a waiver provision if the landlord could demonstrate hardship. In addition, the ordinance permitted the City Manager to develop

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<sup>16</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/03\\_Mar/Documents/2020-03-17\\_Special\\_Item\\_03\\_Berkeley\\_COVID-19\\_Relief\\_Fund\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/03_Mar/Documents/2020-03-17_Special_Item_03_Berkeley_COVID-19_Relief_Fund_pdf.aspx)

<sup>17</sup> <https://berkeleyrelieffund.org>

<sup>18</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/03\\_Mar/Documents/2020-03-17\\_Special\\_Item\\_03\\_Berkeley\\_COVID-19\\_Relief\\_Fund\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/03_Mar/Documents/2020-03-17_Special_Item_03_Berkeley_COVID-19_Relief_Fund_pdf.aspx)

<sup>19</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/03\\_Mar/Documents/2020-03-17\\_Special\\_Item\\_02\\_Urgency\\_Ordinance\\_Adopting\\_BMC\\_-\\_Rev.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/03_Mar/Documents/2020-03-17_Special_Item_02_Urgency_Ordinance_Adopting_BMC_-_Rev.aspx)



implementing regulations and standards for what might constitute grounds for a waiver modification of the requirements.

On April 14 2020, the City Council approved the creation of a special structured financial recovery loan fund -- the Save Our Small (SOS) Business Loan Fund -- to provide a supplemental source of capital for small businesses impacted by the COVID-19 emergency.<sup>20</sup> Under the SOS Business Loan Fund, the City would act as a sponsor of the fund, working with one or more financial institutions to pool capital from private investors and the City to lower the risk of the loans and support low interest rates. The State of California later announced a statewide loan fund based on the SOS model Berkeley passed, making these kinds of loans available to small businesses in Berkeley and across the state.<sup>21</sup>

### **Continuing Risk to Small Businesses and Small Business Owners**

Despite the City's extraordinary response to the COVID-19 emergency, many Berkeley small businesses remain in jeopardy of failure while their owners and operators face significant personal financial risk as well. Restrictions set forth in the public health orders have had lasting impacts upon many businesses. Moreover, mandatory statewide industry guidance has forced many businesses to remain closed or to operate at extremely limited capacities. Eviction protections authorized by the Governor and by the City of Berkeley have not prevented many local businesses from being forced to permanently close, and many other local businesses that remain open have been forced to default on their rent obligations and cannot hope to completely pay back what they owe in the foreseeable future.

Berkeley has come together as a community to share the burdens imposed by the COVID-19 pandemic, but many small business owners remain in desperately precarious financial circumstances. In November 2020, a small business owner in Downtown Berkeley, and a local resident of 20 years, wrote to Councilmember Hahn:

I own a [business] in Downtown Berkeley which has been shut since March 16<sup>th</sup> due to Covid 19 lockdown orders. While I am still hopeful that we might reopen at some point, we are very behind on rent, and the possibility of closing permanently is very real. My business partner and I, like most small tenants, were required to personally guaranty our commercial lease in order to do business with our landlord. This means that, in the event of a default, after evicting us the landlord can come after our personal assets to recover unpaid rent; we could lose what little we have left even after losing our entire business: our homes, our kids' savings, everything is at risk. And all due to no fault of our own.

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<sup>20</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/04\\_Apr/City\\_Council\\_04-14-2020\\_-\\_Regular\\_Meeting\\_Agenda.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/04_Apr/City_Council_04-14-2020_-_Regular_Meeting_Agenda.aspx)

<sup>21</sup> [https://haas.berkeley.edu/wp-content/uploads/CA-Rebuilding-Fund\\_Local-Government-Forum.pdf](https://haas.berkeley.edu/wp-content/uploads/CA-Rebuilding-Fund_Local-Government-Forum.pdf)



In December 2020, the proprietor of a prominent Berkeley food establishment wrote to the City Council that her financial situation was dire (emphasis added):

I own a business in Berkeley that has been shut-down by health officials since mid-March, due to Covid-19. With zero revenue since then, I have been unable to pay the rent, which is approximately \$500./day—or \$15,000./month. Because of the nature of my business, I will be among the last allowed to re-open (and possibly the 1<sup>st</sup> to be shuttered again!). The amount of rent past-due is approximately \$135,000. and growing quickly, and there is no end in sight to this mess!

If I'm eventually allowed to re-open, there's no way I will be able to repay the past rent, and it's unlikely that I'll be able to keep up with the current rent in this new business climate. And if I default on the Commercial Lease, the landlord will come after my business and will probably come after me personally! I'm so worried about losing not only my hard-earned business and livelihood, but my house and my daughter's college savings as well! **I'm scared I could be ruined.**

Please pass the emergency ordinance to prohibit the enforcement of personal liability provisions in leases. We shouldn't have to fear our landlords coming after our personal life savings and assets because of a disaster no one saw coming!<sup>22</sup>

These valued community members should be able to make sound business decisions and live without the fear that the pandemic will cost them not only their customers and revenues but also their personal assets and homes.

Across the Bay, a report released by the San Francisco Budget and Legislative Analyst's Office estimated unpaid commercial rent in San Francisco to be between \$172 million and \$404 million.<sup>23</sup> According to the report, nine-tenths of the unpaid rent (excluding hotels) may come from the retail sector, including restaurants and bars. One small business owner who owns a business supporting the live music industry testified that he faces bankruptcy, which could force him to liquidate his home and childrens' college savings accounts.<sup>24</sup> According to the Lawyers' Committee For Civil Rights in the San Francisco Bay Area, some landlords have sued small businesses for damages over unpaid back rent and illegally locked tenants out of storefronts.<sup>25</sup>

At the time this report was drafted, the author did not have specific information regarding lawsuits targeting Berkeley small business owners for personal liability for unpaid rent or other expenses related to their small businesses. Nevertheless, the risk

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<sup>22</sup> December 1, 2020, Letter from Berkeley food establishment proprietor in support of personal liability protection (noting that, "Because of the sensitivity of my situation, I am not including my name.")

<sup>23</sup> <https://sfbos.org/sites/default/files/BLA.UnpaidCommercialRent.031821.pdf>

<sup>24</sup> <https://www.sfchronicle.com/local/article/S-F-small-businesses-owe-up-to-400-million-in-16036698.php>

<sup>25</sup> <https://www.sfchronicle.com/local/article/S-F-small-businesses-owe-up-to-400-million-in-16036698.php>

of personal financial ruin for many Berkeley small business owners is real without the protections provided in this ordinance.

## **Conclusion**

This legislation does not forgive or erase the rent debts accrued by small businesses during the pandemic. It merely seeks to protect the owners of those businesses from devastating personal financial consequences. In enacting this legislation, the City seeks to prevent the loss of even more of the small businesses that make our local economy vibrant and unique.

No one could have predicted the pandemic, nor could anyone have predicted that a year later many local businesses would still be required to operate at reduced capacity. Landlords and business owners alike must share the burdens of these public health restrictions, and should share the goal of rebuilding a vibrant local economy.

Failure to prevent Berkeley's small business owners from being pushed into personal bankruptcy would be a tragedy for the City. It would not only compromise the ability of small business owners to maintain their businesses and life's work, but could also further exacerbate the economic crisis citywide. Given the critical role small businesses play both economically and in creating Berkeley's distinctive character, ensuring the financial survival of small business owners is critical to the City's recovery from the COVID-19 pandemic.

## FISCAL IMPACTS

Staff time and expenses for outreach and communications to impacted businesses.

## CONTACT INFORMATION

Vice Mayor Sophie Hahn, Council District 5, 510-682-5905 (cell)

## ATTACHMENTS

1. Dec. 1, 2020 Council item, Personal Liability Protection for Small Businesses
2. Urgency Ordinance adding Chapter 13.113, Relating to Personal Liability in Commercial Leases During the Covid-19 Pandemic



**SOPHIE HAHN**  
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CONSENT CALENDAR  
December 1, 2020

To: Honorable Members of the City Council  
From: Vice Mayor Sophie Hahn (Author), Councilmember Wengraf (Co-Sponsor)  
Subject: Personal Liability Protection for Small Businesses

RECOMMENDATION

1. Direct the City Manager and City Attorney to draft and submit to the City Council for consideration an emergency ordinance to prohibit the enforcement of personal liability provisions in commercial leases and commercial rental agreements in the City of Berkeley for lessees/renters who have experienced financial impacts related to the Covid-19 pandemic.
  
2. Direct the City Manager to conduct outreach to all commercial tenants regarding any protections enacted by the City Council, with a particular focus on businesses that were required to stop serving food or beverages (e.g., restaurants, bars); close to the public (e.g., hair salons, barbershops, tattoo parlors); cease operations (e.g., gyms, fitness centers); or sharply limit operations (e.g., schools, retail shops, nurseries) due to the COVID-19 crisis.

BACKGROUND

The outbreak of the COVID-19 pandemic and subsequent orders to stay at home and practice social distancing have had a profound impact on Berkeley. Although Berkelyans have exercised extraordinary patience and cooperation as the City has worked to contain the coronavirus and reopen our challenged economy, the pandemic has been crushing for vulnerable families and individuals, and for small businesses, the arts sector, schools, not-for-profits, and other local organizations.

This spring, many Berkeley businesses and organizations saw a 25-75% drop in gross receipts due to the shutdown.<sup>1</sup> Unable to absorb such a steep loss of revenue, many were forced to reduce services, lay off workers, or even shutter their establishments. Some owners and organizations face the possibility that the enterprises into which they have poured their lives may never return.

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<sup>1</sup> March 13, 2020, Letter from the Berkeley Chamber, Downtown Berkeley Association, Telegraph Business Improvement District and Visit Berkeley

Small, local businesses, as well as nonprofit and arts organizations, are key to Berkeley's economic health -- not only through economic activity, but also because they give life to our community, impacting our perception of economic well being.

This spring, the Berkeley City Council acted quickly to meet the crisis, creating a tax-exempt relief fund to provide gap resources to small businesses, arts organizations, and renters significantly impacted by the COVID-19 emergency. Through this program, grants of up to \$10,000 were made available. The City's Economic Development staff worked quickly to support businesses and organizations in many other ways, including to ensure access to resources made available by the state and federal governments.

On April 14, 2020, the City Council approved the creation of a special structured financial recovery loan fund -- the Save Our Small (SOS) Business Loan Fund -- to provide a supplemental source of capital for small businesses impacted by the COVID-19 emergency. Under the SOS Business Loan Fund, the City would act as a sponsor of the fund, working with one or more financial institutions to pool capital from private investors and the City to lower the risk of the loans and support low interest rates.

The State of California has announced a statewide loan fund based on the SOS model Berkeley passed, making these kinds of loans available to small businesses across the state.

Despite these and other bold actions by the City of Berkeley, our small businesses and organizations including arts, not-for-profits and schools, continue to face extraordinary hardship. In addition to risks to their businesses and organizations, many owners and operators in Berkeley face significant personal financial risk as well. A small business owner in Downtown Berkeley, and local resident of 20 years, recently wrote to my office and lays out the situation in very stark terms:

"I own a [business] in Downtown Berkeley which has been shut since March 16<sup>th</sup> due to Covid 19 lockdown orders. While I am still hopeful that we might reopen at some point, we are very behind on rent, and the possibility of closing permanently is very real. My business partner and I, like most small tenants, were required to personally guaranty our commercial lease in order to do business with our landlord. This means that, in the event of a default, after evicting us the landlord can come after our personal assets to recover unpaid rent; we could lose what little we have left even after losing our entire business: our homes, our kids' savings, everything is at risk. And all due to no fault of our own."

Unfortunately, personal liability guarantees are all too common in small businesses leases. Such provisions mean, with respect to a commercial lease or other rental agreement, that a small business owner becomes wholly or partially personally liable for an obligation arising under the lease or agreement in the case of a default or other event.

In cases where the Covid shutdown has deprived a small business owner of sufficient revenue to keep up with rent payments, the owner might be able to access personal assets including the business owner's home and savings.

This measure will help ensure that small business owners, and arts, not-for-profit, schools and other organizations in Berkeley that are impacted by the Covid-19 health emergency do not face the potential for personal financial ruin, including loss of their homes, as a result of this pandemic.

These enterprises -- restaurants, salons, arts organizations, schools, and others -- have been damaged through no fault of their own. Protecting the owners and operators of Berkeley businesses and organizations -- and their families -- is not only fair, it is also essential to ensuring that Berkeley is able to recover from the COVID-19 emergency and economic downturn.

#### FISCAL IMPACTS

Staff time and expenses for outreach and communications to impacted businesses.

#### CONTACT INFORMATION

Vice Mayor Sophie Hahn, Council District 5, 510-682-5905 (cell)

#### ATTACHMENTS

1. [NYC Council Int. No. 1932-A](#)

Ordinance No. -N.S.

URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BERKELEY ADDING CHAPTER 13.113, RELATING TO PERSONAL LIABILITY IN COMMERCIAL LEASES DURING THE COVID-19 PANDEMIC; DECLARING THE URGENCY THEREOF; AND DECLARING THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.

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

Section 1. Title

This ordinance shall be known as the Personal Liability Provisions of Commercial Leases During the COVID-19 Pandemic Ordinance

Section 2. That Chapter 13.113 is hereby added to the Berkeley Municipal Code to read as follows:

**Chapter 13.113**

**Personal Liability Provisions of Commercial Leases During the COVID-19 Pandemic**

**13.113.010 Findings and Purpose**

**13.113.020 Prohibition on Enforcement of Personal Liability Provisions Arising from Commercial Leases**

**13.113.030 Definitions**

**13.113.040 Severability.**

**13.113.010 Findings and Purpose.**

The global pandemic caused by the novel coronavirus named "SARS-CoV-2", ("COVID-19") has resulted in extraordinary measures by state and local government to reduce the spread of infection. These measures have had their most pronounced impact upon small businesses who have been forced to close or drastically reduce services and/or customer capacity in order to do their part in protecting public health.

On March 16, 2020, the City of Berkeley Health Officer, along with several other neighboring jurisdictions issued a Shelter in Place Order directing all individuals living in the City of Berkeley to shelter at their place of residence except that they may leave to provide or receive certain essential services or engage in certain essential activities, and prohibiting non-essential gatherings and ordering cessation of non-essential travel.

This Shelter in Place Order was subsequently extended and amended and economic activity in Berkeley remains constrained by both state and local public health orders.

On March 16, 2020, the Governor issued Executive Order N-28-20, specifically authorizing local governments to halt evictions for commercial tenants. This order was extended by Executive Order N-03-21, through June 30, 2021.

The restrictions set forth in these public health orders have had lasting impacts upon many businesses in Berkeley, resulting in significant revenue reductions and job losses in a variety of sectors, including retail, hospitality, and the performing arts. In April 2020, a poll of small businesses found the pandemic was already taking a steep toll: more than two-fifths of the businesses surveyed expected greater than 80% revenue loss over the three months from when the pandemic began impacting the community; more than half (56%) expected to close permanently; and 33% “reduced salaries or staff hours” to avoid business closure. Thousands were left unemployed in key Berkeley industry sectors, including significant job losses tourism and hospitality (especially lodging, food and beverage, and arts and cultural industries); retail (especially clothing and accessories); and personal and professional service industries (e.g. gyms and fitness studios, salons, employment services). Moreover, mandatory statewide industry guidance has forced many businesses to remain closed or to operate at extremely limited capacities. The eviction protections authorized by the Governor and the City of Berkeley have not prevented many local businesses from being forced to permanently close, and many other local businesses that remain open have been forced to default on their rent obligations and cannot hope to completely pay back what they owe in the foreseeable future.

Small businesses are the cultural and economic lifeblood of Berkeley, giving the City its distinctive character, providing access to essential goods and services, and creating jobs and economic opportunities. As of 2019, there were approximately 5,000 small businesses in Berkeley, accounting for approximately 40% of the jobs in the City. The fiscal impact of businesses to the City of Berkeley is substantial; roughly a quarter of the City’s general fund revenues are generated by business-related taxes.

Berkeley has come together as a community to share the burdens imposed by the COVID-19 pandemic, but many small business owners remain in desperately

precarious financial circumstances. These valued community members should be able to make sound business decisions and live without the fear that the pandemic will cost them not only their customers and revenues but also their personal assets and homes. This legislation does not forgive or erase the rent debts accrued by small businesses during the pandemic, it merely seeks to protect the owners of those businesses from devastating personal financial consequences. In enacting this legislation, the City seeks to prevent the loss of even more of the small businesses that make our local economy vibrant and unique.

No one could have predicted the pandemic, nor could anyone have predicted that a year later many local businesses would still be required to operate at reduced capacity. Landlords and business owners alike must share the burdens of these public health restrictions, and should share the goal of rebuilding a vibrant local economy.

### **13.113.020 Prohibition on Enforcement of Personal Liability Provisions Arising from Commercial Leases**

No Personal Liability Provision arising from the default in payments due under the terms of a Commercial Lease may be enforced against an individual where the default allowing for such enforcement occurred during the COVID-19 Period and is the result of the Impacts of COVID-19 Public Health Orders.

### **13.113.030 Definitions**

- A. COVID-19 Period. The term "COVID-19 Period" means March 16, 2020 through the 30<sup>th</sup> day after the expiration of the prohibition on commercial evictions authorized by Executive Order N-28-20 as extended by Executive Order N-03-21 and any subsequent extension thereof.
- B. Impacts of COVID-19 Public Health Orders. The term "Impacts of COVID-19 Public Health Orders" means a material decrease in business income (or a material increase in operating expenses) caused by a public health order or applicable industry guidance, during the effective period of such order or guidance. Impacts of COVID-19 Public Health Orders include but are not limited to forced closure or substantial reduction in operating capacity, and costs incurred to achieve compliance.



- C. Personal Liability Provision. The term “Personal Liability Provision” means, with respect to a Commercial Lease, a term that provides for an individual who is not the tenant to become wholly or partially personally liable for the rent, charges, or other sums required to be paid by the business, upon the occurrence of a default in payment. The term “Personal Liability Provision” includes the execution of a separate instrument that would otherwise qualify as a Personal Liability Provision if it were included within the terms of the underlying Commercial Lease under which the rent came due, and the individual to be held liable for the rent is a natural person rather than a business entity.
- D. Commercial Lease. The term “Commercial Lease” means a lease, sublease or any other rental agreement involving commercial real property as defined as defined in subdivision (d) of Section 1954.26 of the California Civil Code.

**13.113.040 Severability.**

If any section, subsection, sentence, clause, phrase, or word of this Chapter, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of this Chapter. The Council of the City of Berkeley hereby declares that it would have passed this Chapter and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this Chapter or application thereof would be subsequently declared invalid or unconstitutional.

Section 3. Vote Required, Immediately Effective

Based on the findings and evidence in Section 13.112.010 of this Urgency Ordinance, the Council determines that this Ordinance is necessary for the immediate preservation of the public health, peace and safety in accordance with Article XIV Section 93 of the Charter of the City of Berkeley and must therefore go into effect immediately. This Ordinance shall go into effect immediately upon a seven-ninths vote of the City Council, in satisfaction of the Charter of the City of Berkeley.





CONSENT CALENDAR  
April 20, 2021

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Rigel Robinson (Author), Councilmember Kesarwani (Co-Sponsor)  
 Subject: Support for AB 455: Bay Bridge Transit-Only Lane

### RECOMMENDATION

Send a letter to Assemblymember Rob Bonta, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Assembly Bill 455, which would authorize the Bay Area Toll Authority, in consultation with the Department of Transportation, to designate transit-only traffic lanes on the San Francisco-Oakland Bay Bridge.

### BACKGROUND

AB 455, introduced by Assemblymember Bonta, would authorize the Bay Area Toll Authority, in consultation with the Department of Transportation, to designate transit-only traffic lanes on the San Francisco-Oakland Bay Bridge. It would also state the intent of the legislature to establish tolls, vehicle occupancy requirements, incident response procedures, other operational improvements, and capital investment priorities in order to achieve fast and reliable bus transit within the corridor. This goal would be defined as buses that average at least 45 miles per hour in both directions along the Bay Bridge Corridor no less than 90 percent of weekdays each month.

As defined in the bill, a transit-only traffic lane is a lane restricted to mass transit vehicles and possibly other vehicles such as taxis, high-occupancy vehicles, and vanpools. This would not be an unprecedented move — the Bay Bridge had a bus-only lane from January 1961 to January 1963. During this time, bus efficiency across the bridge became twice as fast as the average automobile, and Transbay ticket sales increased by 12.8 percent in just one year.<sup>1</sup>

Currently, the Bay Bridge has a short bus lane to bypass toll lines. However, the majority of the bridge requires buses to share lanes with regular automobiles. As Bay Area residents are priced out of San Francisco and move to the East Bay and other more affordable regions, Transbay automobile traffic has increased proportionally. According to the Metropolitan Transportation Commission, weekday congestion-related delays on Bay Area freeways have broken a new record, surging by 80 percent since 2010.<sup>2</sup> This has created a situation in which buses are frequently stuck in traffic, causing slow, costly, and unreliable bus service.

<sup>1</sup> San Francisco Chronicle: Thursday, February 8, 1962

<sup>2</sup> <https://mtc.ca.gov/whats-happening/news/bay-area-vital-signs-freeway-congestion-hits-new-record-0>

The Bay Bridge is an excellent candidate for a transit-only lane, as a commuter corridor where transit speeds and headway reliability are of concern.<sup>3</sup> According to a 2019 study by the UCLA Institute of Transportation, transit-only lanes increase bus ridership by “speeding up travel times, improving [the] passenger experience and enhancing overall perceptions of riding the bus.”<sup>4</sup> A transit-only lane would make Transbay buses a reliable and fast choice, encouraging public transportation use and alleviating traffic. Permanent bus-only lanes have been implemented in San Francisco, Los Angeles, Santa Monica, Chicago, Baltimore, and right here in Berkeley. Additional pilot programs are underway in cities such as Boston, Cincinnati, Pittsburgh, and Cambridge.<sup>5</sup>

In 2020, the Cities of Berkeley<sup>6</sup> and Oakland,<sup>7</sup> as well as the BART Board<sup>8</sup> and the AC Transit Board,<sup>9</sup> expressed our joint support for the designation of a bus-only lane on the Bay Bridge in an effort to expand the reliability and efficiency of public transportation.

The City of Berkeley should reaffirm our support for sustainable, reliable bus service on the Bay Bridge by endorsing AB 455 and sending a letter of support to Assemblymember Rob Bonta, Senator Nancy Skinner, and Assemblymember Buffy Wicks.

#### FINANCIAL IMPLICATIONS

None.

#### ENVIRONMENTAL SUSTAINABILITY

Making it easier for Berkeley residents to commute or travel to San Francisco by public transit is consistent with the City of Berkeley Climate Action Plan, which calls for dramatic reductions in all emissions, especially related to transit. Transportation is Berkeley’s largest source of greenhouse gas emissions, making up 59 percent.<sup>10</sup>

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<sup>3</sup> <https://www.its.ucla.edu/wp-content/uploads/sites/6/2019/02/Best-Practices-in-Implementing-Tactical-Transit-Lanes-1.pdf>

<sup>4</sup> <http://transitcenter.org/2016/12/19/why-tactical-transit-is-the-next-big-thing/>

<sup>5</sup> <https://www.its.ucla.edu/wp-content/uploads/sites/6/2019/02/Best-Practices-in-Implementing-Tactical-Transit-Lanes-1.pdf>

<sup>6</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/01\\_Jan/Documents/2020-01-28\\_Supp\\_2\\_Reports\\_Item\\_11\\_Rev\\_Robinson\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/01_Jan/Documents/2020-01-28_Supp_2_Reports_Item_11_Rev_Robinson_pdf.aspx)

<sup>7</sup> <https://oakland.legistar.com/View.ashx?M=F&ID=8017210&GUID=9090AC3B-8EB9-4977-B626-C2C490484ED7>

<sup>8</sup> [https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/551291/Attachment\\_D\\_-\\_Berkeley\\_Resolution\\_in\\_Support\\_of\\_a\\_Bus-Only\\_Lane.pdf](https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/551291/Attachment_D_-_Berkeley_Resolution_in_Support_of_a_Bus-Only_Lane.pdf)

<sup>9</sup> <https://actransit.legistar.com/LegislationDetail.aspx?ID=4309704&GUID=30C29C36-B0C0-47D7-A63E-A5194331244E&Options=&Search=&FullText=1>

<sup>10</sup> <https://www.cityofberkeley.info/climate/>

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170  
Arev Walker, Intern

Attachments:

- 1: Letter of support
- 2: Bill text

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB455](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB455)

April 20, 2021

The Honorable Rob Bonta  
California State Assembly  
State Capitol, Room 2148  
Sacramento, CA 95814

**RE: Support for AB 455 - Bay Bridge Transit-Only Lane**

Dear Assemblymember Bonta,

The Berkeley City Council would like to convey its full support for AB 455, which would alleviate Bay Bridge congestion and bring much-needed improvements to the reliability, efficiency, and convenience of Transbay bus service.

The current situation on the Bay Bridge is unworkable for drivers and bus passengers alike, as one of the most congested commuter corridors in the Bay Area. A transit-only lane would massively improve bus service and encourage many people to reconsider driving individual cars across the bridge, reducing transportation-related greenhouse gas emissions. Having a reliable and fast public transit option on the Bay Bridge would also greatly improve access to and from San Francisco for communities in the East Bay.

In 2020, the City of Berkeley expressed our support for the designation of a transit-only lane on the Bay Bridge. We affirm that support today, as the COVID-19 pandemic's impact on transit agencies has made the need to boost public transit ridership ever more clear. AB 455 is an essential step along the way to improving congestion along the Bay Bridge corridor, and we thank you for introducing this important piece of legislation.

Sincerely,

The Berkeley City Council



Office of the City Manager

ACTION CALENDAR  
April 20, 2021

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 add temporary rules for the legislative process during the COVID-19 declared emergency; sunset the temporary process to read written comments at meetings; and rescinding any preceding amendatory resolutions.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The proposed new appendix is a response to the direction of the Agenda & Rules Committee on March 22, 2021. The Committee requested an amendment to the Rules of Procedure to modify the legislative process for “significant new legislation” that is introduced by the Mayor and Council, Commissions, and the City Manager. The purpose of the new rules is to support staff, councilmembers, and members of the public in their focused work to address the COVID-19 pandemic; manage health, mental health, and economic impacts; and navigate the complexities of reopening services and the economy after more than a year of shelter-in-place. The new Appendix D is provided in Attachment 1.

The second proposed change sunsets the temporary rule in Appendix C, adopted in May of 2020, regarding the practice of reading written comments submitted during a Council meeting into the record. Over the past year, the use of videoconference has become widespread and the community has adapted well to the new technology, thus reducing the need to provide for the temporary forum of reading written comments. All written comments received are part of the official record and are distributed to the Mayor and Council. In addition, any member of the public may send written comments directly to the Mayor and all Councilmembers in real time by using the [council@cityofberkeley.info](mailto:council@cityofberkeley.info) e-mail address (this e-mail address also automatically sends a copy to the City Clerk for the official record).

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

The changes to the legislative processes are a response to the direction of the Agenda & Rules Committee on March 22, 2021.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1: Proposed Appendix D

2: Resolution

Exhibit A: City Council Rules of Procedure and Order



## **APPENDIX D. TEMPORARY RULES REGARDING POLICY COMMITTEES AND LEGISLATIVE WORKFLOW DURING THE COVID-19 LOCAL EMERGENCY**

To support staff, councilmembers, and members of the public in their focused work to address the COVID-19 pandemic; manage health, mental health, and economic impacts; and navigate the complexities of reopening after more than a year of shelter-in-place, these temporary rules limiting Policy Committee and City Council consideration of new significant legislation are hereby adopted.

- 1) Except as provided below, “new significant legislation” is defined as any law, program, or policy that represents a significant change or addition to existing law, program, or policy, or is likely to call for or elicit significant study, analysis, or input from staff, Councilmembers or members of the public.
- 2) New significant legislation originating from the Council, Commissions, or Staff and relating to the City’s COVID-19 response, including but not limited to health and economic impacts of the pandemic or recovery, the City Budget process or other essential City processes or business will be allowed to move forward, as well as smaller, less impactful and time sensitive items.
- 3) New significant legislation not related to the City’s COVID-19 response may be submitted to the Agenda process to be referred to the appropriate Policy Committee but will be placed on the unscheduled items list, and timelines will be tolled for the duration of these temporary rules.
- 4) Councilmembers, Commission Chairs/representatives, and Staff may request reconsideration of Agenda Committee determinations regarding significance/impacts, time sensitivity and/or relevance to COVID-19 response and recovery of proposed legislation.
- 5) Policy Committees may take up items referred previous to adoption of these temporary rules or may place them on the unscheduled list where timelines will be tolled. Reconsideration of a determination to place an item on the unscheduled calendar may be requested by the author on the same basis as a reconsideration by the Agenda Committee. Policy Committees are asked to prioritize pending items related to the city’s COVID-19 response and recovery, the City budget process or other essential or time sensitive business. When a Policy Committee has no active items the Committee will not meet.
- 6) The Agenda & Rules and Budget & Finance Policy Committees will continue to meet to carry out their essential agenda setting and budget policy making roles; other legislation before these committees may be placed on the unscheduled calendar where timelines will be automatically tolled for the duration that this policy is in place.
- 7) Any outstanding items voted out of Policy Committee should include staffing and budgetary needs and a budget referral. Implementation of new ordinances, programs or policies may be deferred for the duration of these temporary rules and/or if resources are not identified and allocated.

- 8) These temporary measures will expire at the end of the declared local COVID-19 state of emergency or at an earlier date as determined by the City Council.
- 9) When Policy Committees are reopened by the full City Council, items pending before the Committee will be prioritized by vote of the members of each Committee, in an order that takes into account and balances (i) the amount of time items have been pending before the Committee, (ii) the time sensitivity of the issues/topics raised by the legislation, and (iii) a fair distribution of items from all Councilmembers within the queue.

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

RE-ADOPTING THE CITY COUNCIL RULES OF PROCEDURE AND ORDER

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 all preceding amendatory resolutions 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. XX,XXX–N.S.

Effective April 20, 2021

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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 a limit 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 except during recess periods; 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, as appropriate to the charge or responsibilities of such subcommittee. 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 four Authors and Co-Sponsors, in any combination that includes at least one Author.

Authors must be listed in the original item as submitted by the Primary Author. Co-Sponsors 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
2. 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's Primary 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 points of analysis in Appendix B - Guidelines for Developing and Writing Council Agenda Items.
3. "Author" means the Mayor or other Councilmembers who actually authored an item by contributing to the ideas, research, writing or other material elements.
4. "Primary Author" means the Mayor or Councilmember listed first on the item. The Primary Author is the sole contact for the City Manager with respect to the item. Communication with other Authors and Co-Sponsors, if any, is the responsibility of the Primary Author.
5. "Co-Sponsor" means the Mayor or other Councilmembers who wish to indicate their strong support for the item, but are not Authors, and are designated by the Primary Author to be co-sponsors of the council agenda item.
6. "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.
7. "Packet" means the agenda plus all its corresponding agenda items.
8. "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.

9. "Continued Business" Items carried over from a prior agenda of a meeting occurring less than 11 days earlier.
10. "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 are subject to review, referral, and scheduling by the Agenda & Rules Committee pursuant to the rules and limitations contained herein. The Agenda & Rules Committee 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. four 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 take the following actions:

- i. Refer the item to a commission for further analysis (Primary Author may decline and request Policy Committee assignment).
- ii. Refer the item to the City Manager for further analysis (Primary Author may decline and request Policy Committee assignment).
- iii. Refer the item back to the Primary Author for adherence to required form or for additional analysis as required in Section III.B.2 (Primary Author may decline and request Policy Committee assignment).
- iv. Refer the item to a Policy Committee.
- v. Schedule the item for the agenda under consideration or one of the next three full Council agendas.

For referrals under Chapter III.C.1.a.i, ii, or iii, the Primary Author must inform the City Clerk within 24 hours of the adjournment of the Agenda & Rules Committee meeting whether they prefer to:

- 1) re-submit the item for a future meeting with modifications as suggested by the Agenda & Rules Committee; or
- 2) pull the item completely; or
- 3) 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; or
- 4) accept the referral of the Agenda & Rules Committee in sub paragraphs III.C.1.a. i, ii, or iii, or request Policy Committee assignment.

If the Primary Author requests a Policy Committee assignment, the item will appear on the next draft agenda presented to the Agenda & Rules Committee for assignment.

In the event that the City Clerk does not receive guidance from the Primary Author of the referred item within 24 hours of the Agenda & Rules Committee's adjournment, the item will appear on the next draft agenda for consideration by the Agenda & Rules Committee.

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 unless referred for policy review to 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. Refer the item to a Policy Committee for review.
4. 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 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 Primary 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. Submission of Late Urgency Items Pursuant to Government Code Section 54954.2(b)**

Late Urgency Items are items proposed for submission to the Council Agenda pursuant to Government Code Section 54954.2(b)

All items to be submitted for consideration for addition to an agenda as Late Urgency Items shall be accompanied by a cover sheet that includes 1) boxes to check for the Author to affirm whether the item is submitted under the Emergency or Immediate Action Rule (and a short explanation of what is required to meet each rule, as well as the vote threshold required for the item to be placed onto the agenda by the City Council); 2) a disclaimer in BOLD 14pt. CAPS stating that the item is not yet agendized and may or may not be accepted for the agenda as a Late Urgency Item, at the City Council's discretion according to Brown Act rules; 3) a prompt requiring the author to list the facts which support consideration of the item for addition to the agenda as either an Emergency or Immediate Action item; and 4) a copy of the City Attorney memo on Late Urgency Items.

Late Items must be submitted to the City Clerk no later than 12:00 p.m. (noon) the day prior to the meeting.

All complete Late Items submitted by the deadline will be distributed with Supplemental Communication Packet #2 by 5:00 p.m. the day before the Council meeting. A Late Item is not considered "complete" and will not be distributed unless submitted with the required cover sheet, filled out in a complete manner.

Very Late Urgency Items of an extremely urgent nature (e.g., earthquake, severe wildfire, pandemic) may be submitted for addition to the agenda after the deadline of 12:00 p.m. the day before the meeting to accommodate unforeseeable, extreme and unusual circumstances. A Very Late Urgency Item will be distributed at the Council meeting prior to any vote to add it to the agenda and the Presiding Officer may provide an appropriate break to allow Councilmembers and the public to review the item before voting on whether to add it to the agenda and possibly again, at the Presiding Officer's discretion, before the item is voted on.

The required cover sheet should be included with the Very Late Urgency Item unless extremely exigent circumstances underlie the Very Late Urgency Item submission and a written cover sheet could not be prepared (for example, power is out and printing or emailing is not possible), in which case the individual "walking in" the item should be ready to provide all required information verbally at the meeting before a vote is taken to add or not add the item to the Agenda.

#### **6. 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. The Agenda & Rules Committee may request a presentation by staff in consultation with the City Manager.

### **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 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.8.
  - 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.

#### 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 be listed as Authors or Co-Sponsors on an item provided that one of the Authors or Co-Sponsors 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, who also can not be an Author or Co-Sponsor, will serve as a committee member in place of the non-participating Author or Co-Sponsor.
- d. All three members of a Policy Committee may not be Authors or Co-Sponsors of an item that will be heard by the committee.
- e. Only one Author or Co-Sponsor 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 who is not a member of the committee is present to participate in the discussion of their item, no other non-committee member 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 revised or supplemental 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 Primary Author's request that the item remain in committee until a date certain (more than one extension may be requested by the Primary 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 Primary 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 City Clerk 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.

Policy Committees may add discussion topics that are within their purview to their agenda with the concurrence of a majority 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 Primary 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 Primary 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, public comment on consent and information items, and adoption of the Consent Calendar, 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, below.

**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. Written Communications**

Written communications 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.

**G. 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 or motion 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. Robert's Rules of Order**

Robert's 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, a motion for the previous question, which, if passed by a 2/3 vote, 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.

**L. Use of Cellular Phones and Electronic Devices**

The use of cell phones during City Council meetings is discouraged for the Mayor and Councilmembers. While communications regarding Council items should be minimized, personal communications between family members and/or caregivers can be taken outside in the case of emergencies. In order to acknowledge differences in learning styles and our of support tactile learners, note-taking can continue to be facilitated both with a pen and paper and/or on electronic devices such as laptop computers and tablets.

The use cell phones during Closed Session Meetings is explicitly prohibited for the Mayor and Councilmembers.

## **VI. FACILITIES**

### **A. Meeting Location 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 Primary 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 Primary 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

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**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**

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## **APPENDIX C. TEMPORARY RULES FOR THE CONDUCT OF CITY COUNCIL MEETINGS THROUGH VIDEO CONFERENCE DURING THE COVID-19 EMERGENCY**

### **Mayor and Councilmember Speaking Time on Agenda Items**

At the outset of the meeting, each Councilmember will have one minute to offer words of support, encouragement or appreciation to the public and City staff.

For the Consent Calendar, the Mayor and Councilmembers will initially have up to five minutes each to make comments. After all members of the Council have spoken (or passed) and after public comment, members will each have two additional minutes to discuss the Consent Calendar.

For non-Consent items, the Mayor and Councilmembers will have two minutes each to make initial comments on an agenda item, except for the author of an agenda item who will have five minutes to initially present the item. After every Councilmember has spoken or declined and after public comment, Councilmembers will each have another five minutes per person to address an item. Debate may be extended beyond a second round of Council comments by a majority vote (5 votes).

Time will toll during staff answers to questions; Councilmembers are urged to ask their questions before the meeting.

### **Procedure for Pulling Items from Consent or Information Calendar**

Three (3) members of the City Council must agree to pull an item from the Consent or Information Calendar for it to move to Action. Absent three members concurring, the item will stay on Consent or Information Calendar and, with respect to Consent items, the Mayor or Councilmembers will be allowed to record their aye, nay or abstain votes on individual items or the entire Consent Calendar.

### **Public Comment Speaking Time**

With the exception of prescribed times in the Rules of Procedure for public hearings, the amount of time for each speaker during public comment is limited to two minutes maximum and that speakers can only address an agenda item once. Yielding of time to other speakers is not permitted for regular meetings of the City Council.

Public Comment on Non-Agenda Matters will be conducted in the order of hands raised on the Zoom platform, and will be limited to either the first 10 speakers during the initial round of Non-Agenda public comment, as well as all hands raised during the closing round of Non-Agenda public comment at the conclusion to the meeting, until such time that the meeting adjourns. Each speaker shall have two minutes. The procedure for selection of Non-Agenda speakers prescribed in the Rules of Procedure by random draw is suspended for videoconference meetings where there is no physical meeting location.

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**APPENDIX D. TEMPORARY RULES REGARDING POLICY COMMITTEES AND LEGISLATIVE WORKFLOW DURING THE COVID-19 LOCAL EMERGENCY**

To support staff, councilmembers, and members of the public in their focused work to address the COVID-19 pandemic; manage health, mental health, and economic impacts; and navigate the complexities of reopening after more than a year of shelter-in-place, these temporary rules limiting Policy Committee and City Council consideration of new significant legislation are hereby adopted.

- 1) Except as provided below, “new significant legislation” is defined as any law, program, or policy that represents a significant change or addition to existing law, program, or policy, or is likely to call for or elicit significant study, analysis, or input from staff, Councilmembers or members of the public.
- 2) New significant legislation originating from the Council, Commissions, or Staff and relating to the City’s COVID-19 response, including but not limited to health and economic impacts of the pandemic or recovery, the City Budget process or other essential City processes or business will be allowed to move forward, as well as smaller, less impactful and time sensitive items.
- 3) New significant legislation not related to the City’s COVID-19 response may be submitted to the Agenda process to be referred to the appropriate Policy Committee but will be placed on the unscheduled items list, and timelines will be tolled for the duration of these temporary rules.
- 4) Councilmembers, Commission Chairs/representatives, and Staff may request reconsideration of Agenda Committee determinations regarding significance/impacts, time sensitivity and/or relevance to COVID-19 response and recovery of proposed legislation.
- 5) Policy Committees may take up items referred previous to adoption of these temporary rules or may place them on the unscheduled list where timelines will be tolled. Reconsideration of a determination to place an item on the unscheduled calendar may be requested by the author on the same basis as a reconsideration by the Agenda Committee. Policy Committees are asked to prioritize pending items related to the city’s COVID-19 response and recovery, the City budget process or other essential or time sensitive business. When a Policy Committee has no active items the Committee will not meet.
- 6) The Agenda & Rules and Budget & Finance Policy Committees will continue to meet to carry out their essential agenda setting and budget policy making roles; other legislation before these committees may be placed on the unscheduled calendar where timelines will be automatically tolled for the duration that this policy is in place.
- 7) Any outstanding items voted out of Policy Committee should include staffing and budgetary needs and a budget referral. Implementation of new ordinances, programs or policies may be deferred for the duration of these temporary rules and/or if resources are not identified and allocated.

- 8) These temporary measures will expire at the end of the declared local COVID-19 state of emergency or at an earlier date as determined by the City Council.
- 9) When Policy Committees are reopened by the full City Council, items pending before the Committee will be prioritized by vote of the members of each Committee, in an order that takes into account and balances (i) the amount of time items have been pending before the Committee, (ii) the time sensitivity of the issues/topics raised by the legislation, and (iii) a fair distribution of items from all Councilmembers within the queue.





Cheryl Davila  
Councilmember  
District 2

ACTION CALENDAR  
April 20, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila (Author)

Subject: Requesting the California State Legislature to introduce actions to value human life and to condemn racial injustice and police brutality.

RECOMMENDATION

1. Adopt a resolution requesting the California State Legislature to introduce legislation incorporating recommendations from the community to value human life and to condemn racial injustice and police brutality.
2. Send copies of this resolution to State Assemblymember Buffy Wicks, State Senator Nancy Skinner, and Governor Gavin Newsom.

POLICY COMMITTEE RECOMMENDATION

On March 8, 2021, the Health, Life Enrichment, Equity and Community Committee adopted the following action: M/S/C (Kesarwani/Bartlett) to forward the item to Council with a negative recommendation given that there are a number of questions as to some of the points of the resolution including the purview of the Legislature, legal questions, and feasibility. The Committee recommends that the Council refer to the Public Safety Committee to consider the state Police Officer's Bill of Rights and possible subsequent action by the City Council. Further, that the office of Councilmember Taplin will look into specific state bills on police reform and public safety issues to determine which bills warrant a letter of support from the City Council.  
Vote: All Ayes.

BACKGROUND

With the deaths of Ahmaud Arbery, Breonna Taylor, and George Floyd, we at the same time are reeling from the devastating effects and challenges of COVID-19 that has disproportionately affected the black community at high rates.

We must now move from protests to substantive policy change. We must be able to respond to our children and their children's children when they ask what we did during these troubled times to impact the community and make a difference?

The Berkeley City Council has a past record of supporting legislation to value human life, and to condemn racial injustice and police brutality.

In December 2018, in the nearby City of Richmond, then Councilmembers Jovanka Beckles and Eduardo Martinez introduced similar legislation requesting the State Legislature to

introduce legislation based on recommendations brought forward by the community. The legislation was approved by the Richmond City Council and sent to the State Legislature.

Police officers can occasionally make poor choices that result in implementing harsh enforcement policies, often in extremely stressful and dangerous situations.

The City Council envisions a future where violent encounters between police and civilians are extremely rare.

An alarming number of people are killed by police every year, the majority of those victims were unarmed or were killed for behaviors due to issues that have included mental health that should not have resulted in death.

Black and Latino teenage males are more likely to be killed by police than white teenage males and unarmed Black and Latino men are more likely to be killed by police than unarmed white men.

Aggressive policing and lack of community representation on police forces, often negatively impact people of color, leading to the use of racial profiling and disproportionate number of deaths of people of color at the hands of the police.

Police departments cannot investigate themselves, and there is a long list of no conviction cases.

There are too many cases where charges are not filed by top officials despite physical evidence and eyewitness testimony, contradicting the police department's statement of events.

In honor of many who have lost their lives advocating for human rights, the City Council supports human rights.

This action is the first step meant to restore integrity in policing and promote accountability for the public.

The following legislative actions require the State Legislature to introduce and act upon in order to make much needed change to save lives:

1. Repeal The California Police Officer Bill of Rights
2. Approve ACA-5: Repeal of Prop 209 that would ensure that fair hiring practices in California are implemented, so that African Americans can have access to public jobs.
3. Establish protection against profiling, and offer alternatives to mental health crises so that they do not have a fatal end.
4. Create a Task Force to Study and Develop Reparations for African Americans.
5. A Review of each jurisdiction's use of force policy and review of its alignment with AB 392: Peace Officers Deadly Force.
6. Allocate yearly funding and resources to ensure that African Americans in the state have access to culturally-based and responsive mental health services.
7. Establish stronger civilian oversight boards that have disciplinary power, so that law enforcement officers are accountable to the communities in which they serve;
8. Reduce the historically high levels of the prison population, through the implementation of community-based policing, smarter sentencing, and better post-incarceration programs for those returning to society, as well as training law enforcement, to better

- identify mental illness and reducing over forced approach to all Americans;
9. Ensure that the investigation process includes an immediate toxicology exam on all parties involved, including the officers, and unedited civilian video recordings should be considered evidence;
  10. Police unions should bear the cost of the paid administrative leave in the form of malpractice insurance;
  11. Allocate funding to train police to better identify and confront these problems using de-escalation tactics, and keep track of results through frequent data collection and analysis;
  12. All officers of the law receive training to reduce excessive force, and training to assist with interaction with the mentally ill;
  13. Train law enforcement officials to appropriately identify and address mental issues and those with addiction, with the aim of guiding members of the said population to treatment programs instead of jail when applicable;
  14. An officer should be placed on administrative leave without pay during the investigation process;
  15. An officer that is under investigation would not be eligible for CalPERS Disability Insurance or similar benefits as its pre-funded by tax dollars;
  16. Tax dollars should not cover the cost of an officer's legal defense when they fire upon an unarmed civilian, who is not in the act of committing a felony offense;
  17. Police unions should cover the cost of legal defense, malpractice insurance (similar to a doctor);
  18. Police officers who fire upon an unarmed civilian, who is not in the act of committing a felony offense should be reprimanded and prosecuted.

#### FISCAL IMPACTS OF RECOMMENDATION

None.

#### ENVIRONMENTAL SUSTAINABILITY

Protecting our communities during this climate and health crisis is an act of environmental sustainability.

#### CONTACT PERSON

Cheryl Davila  
Councilmember District 2  
510.981.7120  
cdavila@cityofberkeley.info

#### ATTACHMENTS

1. Resolution

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

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF BERKELEY REQUESTING THE CALIFORNIA STATE LEGISLATURE TO INTRODUCE LEGISLATIVE ACTIONS TO VALUE HUMAN LIFE AND TO CONDEMN RACIAL INJUSTICE AND POLICE BRUTALITY

WHEREAS, For several weeks, African Americans have been processing the recent deaths of Ahmaud Arbery and Breonna Taylor while at the same time, reeling from the devastating effects and challenges of COVID-19 that has disproportionately affected the black community at high rates. Then came the horrific death of George Floyd, in full view of the world that stunned many, adding to the community's unrelenting trauma and grief and disgust; and

WHEREAS, We must now move from protests to substantive policy change. We must be able to respond to our children and their children's children when they ask what we did during these troubled times to impact the community and make a difference; and

WHEREAS, The Berkeley City Council has a past record of supporting legislation to value human life, and to condemn racial injustice and police brutality; and

WHEREAS, the City Council is in support of the State legislature introducing legislation to support and value human life, and to condemn racial injustice and police brutality; and

WHEREAS, tension between police and communities throughout the United States has increased over many years after a series of high profile cases of police brutality and racial profiling; and

WHEREAS, police officers can occasionally make poor choices that result in implementing harsh enforcement policies, often in extremely stressful and dangerous situations; and

WHEREAS, the City Council envisions a future where violent encounters between police and civilians are extremely rare; and

WHEREAS, an alarming number of people are killed by police every year, the majority of those victims were unarmed or were killed for behaviors due to issues that have included mental health that should not have resulted in death; and

WHEREAS, Black and Latino teenage males are more likely to be killed by police than white teenage males and unarmed Black and Latino men are more likely to be killed by police than unarmed white men; and

WHEREAS, aggressive policing and lack of community representation on police forces, often negatively impact people of color, leading to the use of racial profiling and disproportionate number of deaths of people of color at the hands of the police; and

WHEREAS, police departments cannot investigate themselves, and there is a long list of no conviction cases; and

WHEREAS, there are too many cases where charges are not filed by top officials despite physical evidence and eyewitness testimony, contradicting the police department's statement of events; and

WHEREAS, in honor of many who have lost their lives advocating for human rights, the City Council supports human rights; and

WHEREAS, this action is the first step meant to restore integrity in policing and promote accountability for the public; and

NOW, THEREFORE, BE IT RESOLVED that the City Council for the City of Berkeley requests the State Legislature to introduce and approve the following legislative actions:

1. Repeal The California Police Officer Bill of Rights
2. Approve ACA-5: Repeal of Prop 209 that would ensure that fair hiring practices in California are implemented, so that African Americans can have access to public jobs.
3. Establish protection against profiling, and offer alternatives to mental health crises so that they do not have a fatal end.
4. Create a Task Force to Study and Develop Reparations for African Americans.
5. A Review of each jurisdiction's use of force policy and review of its alignment with AB 392: Peace Officers Deadly Force.
6. Allocate yearly funding and resources to ensure that African Americans in the state have access to culturally-based and responsive mental health services.
7. Establish stronger civilian oversight boards that have disciplinary power, so that law enforcement officers are accountable to the communities in which they serve;
8. Reduce the historically high levels of the prison population, through the implementation of community-based policing, smarter sentencing, and better post-incarceration programs for those returning to society, as well as training law enforcement, to better identify mental illness and reducing over forced approach to all Americans;
9. Ensure that the investigation process includes an immediate toxicology exam on all parties involved, including the officers, and unedited civilian video recordings should be considered evidence;
10. Police unions should bear the cost of the paid administrative leave in the form of malpractice insurance;
11. Allocate funding to train police to better identify and confront these problems using de-escalation tactics, and keep track of results through frequent data collection and analysis;
12. All officers of the law receive training to reduce excessive force, and training to assist with interaction with the mentally ill;
13. Train law enforcement officials to appropriately identify and address mental issues and those with addiction, with the aim of guiding members of the said population to treatment programs instead of jail when applicable;
14. An officer should be placed on administrative leave without pay during the investigation process;
15. An officer that is under investigation would not be eligible for CalPERS Disability Insurance or similar benefits as its pre-funded by tax dollars;
16. Tax dollars should not cover the cost of an officer's legal defense when they fire upon an unarmed civilian, who is not in the act of committing a felony offense;
17. Police unions should cover the cost of legal defense, malpractice insurance (similar to a doctor);
18. Police officers who fire upon an unarmed civilian, who is not in the act of committing a felony offense should be reprimanded and prosecuted.

BE IT FURTHER RESOLVED that copies of this resolution is sent to State Assemblywoman Buffy Wicks, State Senator Nancy Skinner, and United States Congresswoman Barbara Lee.





Rashi Kesarwani  
Councilmember, District 1

ACTION CALENDAR  
April 20, 2021

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author), Councilmember Taplin (Co-Sponsor)

SUBJECT: Referral to the Planning Commission to Establish a Zoning Overlay at the Pacific Steel Casting Property

RECOMMENDATION

Refer to the Planning Commission to create a zoning overlay at the Pacific Steel Casting (PSC) property in West Berkeley—currently zoned Manufacturing (M) and redesignate it as Mixed Use - Light Industrial (MULI) due to the unique issues of public concern associated with this property (described below); specifically, include in the PSC zoning overlay allowances to enable all MULI uses and override any existing constraints in the Berkeley Municipal Code for Zoning (Title 23) on such MULI uses for the PSC property.

CURRENT SITUATION AND ITS EFFECTS

The Pacific Steel Casting (PSC) property sits at the corner of Eastshore Highway and Gilman Street, extending two blocks south to Page Street with structures on either side of Second Street. Once a thriving manufacturer of custom industrial-use parts employing more than 650 workers, PSC declared bankruptcy in 2014 and permanently shuttered in 2018. The site is known to have a number of problems of public concern, including: (1) environmental contamination at the site, (2) hundreds of blue-collar workers awaiting receipt of their pension benefits as a result of a future sale of the property, and (3) neighborhood blight and safety concerns resulting from an eight-acre multi-block area of abandoned buildings and graffitied fencing around the property.

The site, which is in close proximity to the highly-anticipated reconstruction of the Gilman Interchange, has generated some interest from real estate and business representatives for numerous mixed-use light industrial uses, such as biotechnology labs, warehouse and commercial uses, or office space, among other possibilities. The site has been on the market for more than two years without a serious buyer

due in part to concerns that the current Manufacturing zoning designation limits the potential uses of the site to heavy manufacturing only. Because of the difficulty in generating a prospective buyer for the PSC site—more than two years have elapsed since the property was first put on the market—and the issues of public concern noted above, a zoning overlay specifically for the PSC site is recommended. This referral and establishment of a zoning overlay signals to prospective buyers that the City is eager to see this site reinvented and contributing to our tax base and the vitality of our post-Covid local economy.

## BACKGROUND

Established in 1934 and owned for more than 80 years by the Genger and Delsol families, PSC declared bankruptcy in 2014. Prior to that, a worker class action lawsuit was filed in 2011 against the company for wage theft.<sup>1</sup>

In 2014, the company was purchased by Speyside Equity for \$11.3 million. Until that time, the company had been generating \$100 million in sales annually. Speyside turned the assets of PSC into a limited liability company and pledged to honor the collective bargaining agreements with the union representing the workers, including assuming pension liabilities and paying workers' health benefits.<sup>2</sup> The new company, Pacific Steel Casting LLC, however, failed to pay those benefits in part due to growing financial insecurity prompted by plummeting gas and oil prices which limited the need for production, and in part due to increased competition from China. It was also later discovered that Speyside used suspect financial practices that further drove the company into the ground.<sup>3</sup>

According to reporting from Berkeleyside, "The Speyside Fund, Speyside Equity, Alcast Company of Illinois, various business partners and managers, 'looted' \$14.5 million from the West Berkeley company over a four-year period, and justified the siphoning off by 'cooking' the books, according to the action filed by Sarah L. Little, the bankruptcy trustee."<sup>4</sup> These legal entanglements encumber the land for any potential buyers, as it is predicted it will take between \$27 to \$30 million to make the workers and all the past creditors whole. This is in addition to the costs it will take for the environmental remediation of the property.

## FISCAL IMPACT

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<sup>1</sup> See Berkeleyside, Nov. 7, 2019 article, "Buyers of Pacific Steel Casting 'looted' its assets, made 'insider deals,' according to bankruptcy trustee:"

<https://www.berkeleyside.com/2019/11/07/buyers-of-pacific-steel-casting-looted-its-assets-made-insider-deals-according-to-bankruptcy-trustee>

<sup>2</sup> See Berkeleysides' Dec. 12, 2017 article, "Temporary reprieve for workers: Pacific Steel Casting to remain open through March:" <https://www.berkeleyside.com/2017/12/12/reprieve-workers-berkeleys-pacific-steel-casting-remain-open-march>

<sup>3</sup> See Berkeleysides' Nov. 7, 2019 article, ""Buyers of Pacific Steel Casting 'looted' its assets, made 'insider deals,' according to bankruptcy trustee:" *Op Cit.*

<sup>4</sup> Berkeleyside, Nov. 7, 2019, *Op. Cit.*



Staff time to facilitate the Planning Commission referral and prepare language for the zoning overlay.

ENVIRONMENTAL SUSTAINABILITY

The PSC site requires considerable environmental remediation. A property buyer would address all of the environmental clean-up issues, contributing to a revitalization of West Berkeley's Gilman District and responsible stewardship of the land. The 2014 Atwell, LLC report commissioned by Speyside Equity, LLC concluded that substances such as arsenic, petroleum hydrocarbons, tetrachloroethylene and trichloroethylene and others were present in samplings taken during the environmental investigation of the site.

RATIONALE FOR RECOMMENDATION

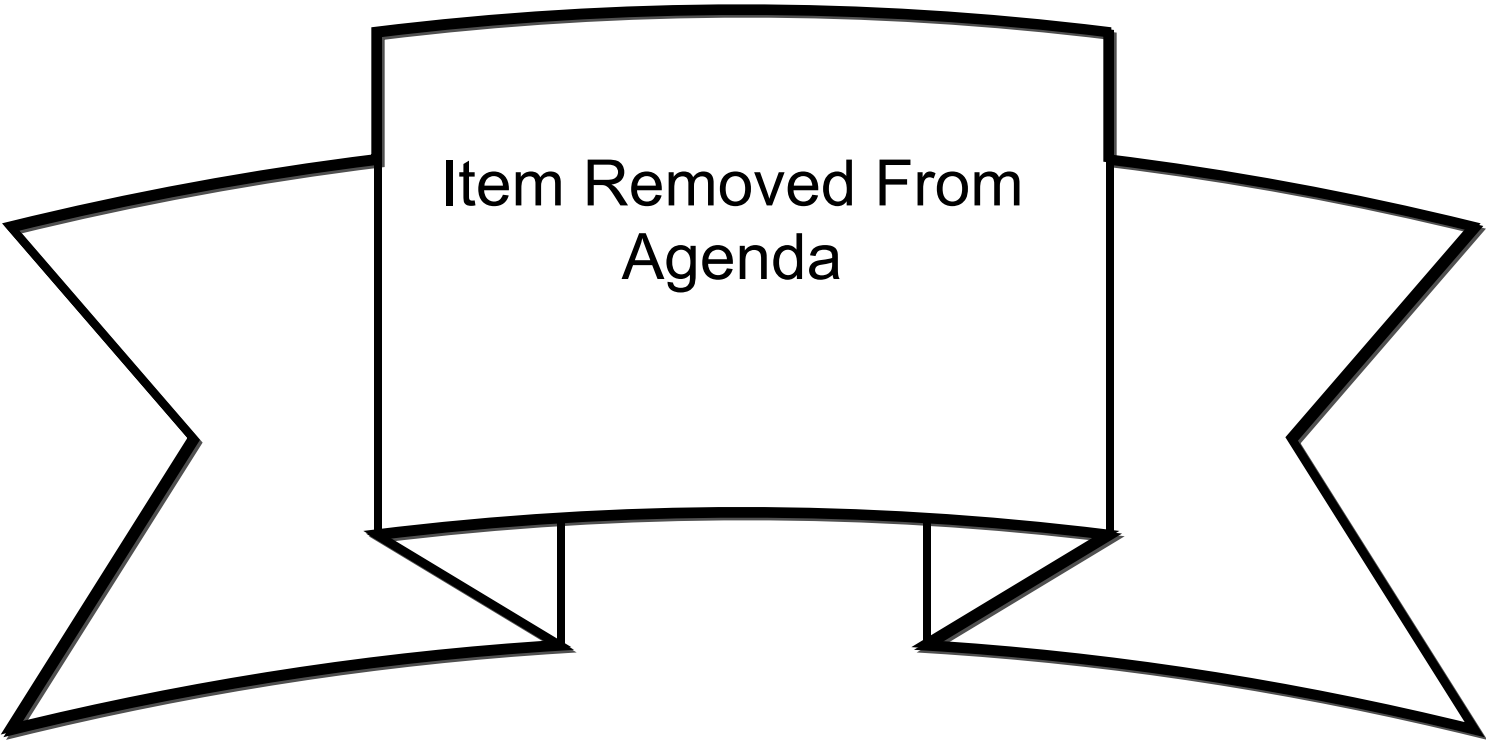
Creating a zoning overlay to enable the PSC site to be zoned MULI will increase the desirability of this property for prospective buyers. This in turn could reap many public benefits once the site is sold. First and foremost, it could enable former PSC workers to receive their pension benefits. It would also result in an environmentally sound property and contribute to the City's tax base.

CONTACT PERSON

Councilmember Rashi Kesarwani, District 1

(510) 981-7110





Item Removed From  
Agenda

This item has been removed from the agenda by the submitting Councilmember.

If you have questions regarding this report, please contact the person noted on the agenda.

**City Clerk Department**  
2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

**The City of Berkeley, City Council's Website**  
<http://www.cityofberkeley.info/citycouncil/>





Kate Harrison  
Councilmember District 4

ACTION CALENDAR  
April 20, 2021

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Harrison  
 Subject: Refer to the City Manager to Prioritize Municipal Fleet Modal Shift to Electric Bicycles and Other Forms of Zero-Emissions Mobility Where Feasible

RECOMMENDATION

Refer to the City Manager to prioritize municipal fleet modal shift to electric bicycles and other forms of zero-emissions mobility, where feasible, as part of ongoing efforts to achieve a zero-emissions fleet by 2030.

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

The City of Berkeley and broader world is facing a climate emergency, requiring municipalities to rapidly transition towards zero carbon programs and operations. In response to Council direction in 2019, the Public Works Department is in the process of transitioning its light, medium and heavy-duty fleet to zero emissions vehicles. Replacing the City's fleet with zero-emissions vehicles will require significant budgetary and carbon investments. Given the carbon, environmental, and budgetary costs of these investments, it is in the public interest to explore opportunities to shift the mode of municipal transit, where feasible, to less-intensive modes, including electric bicycles, scooters and public transportation. This item refers to the City Manager to prioritize such modes of transportation for City operations as feasible.

BACKGROUND

According to the best available science, wealthy nations must achieve near net-zero emissions by 2030 or earlier in order to delay extremely catastrophic warming. Implicit in the U.N.'s global 2050 net-zero targets to keep emissions as close as possible to 1.5 degrees Celsius is the assumption that advanced industrialized nations will near zero by 2030.<sup>1</sup>

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<sup>1</sup> IPCC, 2018: Summary for Policymakers. In: *Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate*

On June 25, 2019, the Council referred to the Manager to create an Action Plan by June 2020, to aggressively accelerate the implementation of the electrification of the City's municipal fleet and phase out fossil fuel use in municipal vehicles by 2030 with consideration of an earlier transition for light-duty passenger vehicles.<sup>2</sup> In 2020, the Department of Public Works in conjunction with the Office of Energy and Sustainable Development and the East Bay Community Energy, submitted their report to the Council.<sup>3</sup> Public Works staff have also committed to submit to Council progress reports every six months and to include detailed rationales justifying any contracts before the Council that include the purchase of any new fossil fuel vehicles. In January 2021, Council passed an additional referral requesting staff to draft a policy phasing out the purchase of new municipal passenger vehicles between 2025-2027.<sup>4</sup> On March 3, 2021, Chair Harrison held a hearing on Public Works' "Action Plan for Greening the City of Berkeley Fleet of Vehicles" at the Facilities, Infrastructure, Transportation, Environment, & Sustainability Policy Committee.<sup>5</sup>

As of February 2020, the City fleet, excluding emergency response vehicles, consisted of 99 passenger sedans and SUVs, 30 parking enforcement scooters, 88 medium-duty pick-up trucks and vans, and 98 heavy-duty vehicles, all domiciled in 15 dispersed

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*change, sustainable development, and efforts to eradicate poverty* [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J.B.R. Matthews, Y. Chen, X. Zhou, M.I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, and T. Waterfield (eds.)]. *World Meteorological Organization, Geneva, Switzerland, 32 pp.*  
<https://www.ipcc.ch/sr15/chapter/spm/>.

<sup>2</sup> Berkeley City Council, "An Action Plan for Greening the City of Berkeley Fleet of Vehicles," June 25, 2019, [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/06\\_June/Documents/06-25\\_Annotated\\_Agenda\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/06_June/Documents/06-25_Annotated_Agenda_pdf.aspx).

<sup>3</sup> City Manager, "Referral Response: An Action Plan for Greening the City of Berkeley Fleet of Vehicles," July 28, 2020, [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/07\\_Jul/Documents/2020-07-28\\_Item\\_26\\_Referral\\_Response\\_\\_An\\_Action\\_Plan.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-28_Item_26_Referral_Response__An_Action_Plan.aspx)

<sup>4</sup> Berkeley City Council, "Introduce an Ordinance terminating the sale of gasoline, diesel and natural gas passenger vehicles throughout the City of Berkeley by 2025," January 19, 2021, [https://www.cityofberkeley.info/Clerk/City\\_Council/2021/01\\_Jan/Documents/01-19\\_Annotated\\_Agenda\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/01_Jan/Documents/01-19_Annotated_Agenda_pdf.aspx).

<sup>5</sup> Department of Public Works, "City of Berkeley Municipal Fleet Electrification Assessment Presentation," Berkeley Facilities, Infrastructure, Transportation, Environment, & Sustainability Policy Committee, March 3, 2021, [https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_City\\_Council/FITES%20Presentation%20on%20Electric%20Vehicles.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/FITES%20Presentation%20on%20Electric%20Vehicles.pdf).

locations.<sup>6</sup> A partial itemized vehicle replacement list is included as part of Attachment 1.

Although replacing fossil fuel vehicles with electric versions is a critical part of the City's strategy to meeting climate goals, it is also critical to maximize any opportunity to avoid unnecessary procurement and purchase of new vehicles wherever possible to avoid new embodied emissions, reduce electric demand, and save precious budgetary climate resources that might otherwise be shifted to other climate programs benefiting community members.

Purchases of new vehicles, whether electric or otherwise, are associated with significant greenhouse gas emissions, environmental destruction and lifecycle energy use. While these emissions are not currently included in the Berkeley's traditional GHG inventory, they should arguably be included as part of the City's consumption inventory.

Certain City services that are currently delivered through vehicles could be potentially shifted to lighter and significantly lower-carbon electric bicycles or other modes of transportation. For example, the City has already referred budget resources to staff to relaunch and expand the Berkeley Police Department bike and foot patrols.<sup>7</sup> While it may not be possible to shift all modes, any shift provides significant climate and health benefits.

A recent University of Oxford study concluded that even partial substitution of vehicle travel with walking, cycling or e-biking are critical strategies for addressing climate change and lower mobility-related lifecycle CO<sub>2</sub>, and that cyclers have 84% lower CO<sub>2</sub> emissions impact as compared to non-cyclers.<sup>8</sup>

In addition, recent and local real-world monitoring and research by Walk Bike Berkeley suggests that:

- E-bikes get anywhere from 1000 to almost 4000 miles per gallon equivalent
- E-bikes cost less than a penny a mile to charge
- E-bikes can go 40 to 140 times as far as a 30-mpg gas car per pound of climate emissions with California's electric energy mix

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<sup>6</sup> "An Action Plan for Greening the City of Berkeley Fleet of Vehicles," July 28, 2020, p. 39.

<sup>7</sup> Councilmember Harrison, "Budget Referral: Police Foot Patrol in Downtown," March 13, 2018, [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/03\\_Mar/Documents/2018-03-13\\_Item\\_19\\_Budget\\_Referral\\_Police.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/03_Mar/Documents/2018-03-13_Item_19_Budget_Referral_Police.aspx)

<sup>8</sup> "Study Shows Walking, Cycling, & e-Biking Make Significant Impact On Carbon Emissions," CleanTechnica, February 3, 2021, <https://cleantechnica.com/2021/02/03/study-shows-walking-cycling-e-biking-make-significant-impact-on-carbon-emissions/>.

- E-bikes are about 10 to 30 times more efficient than electric cars at fighting climate change
- E-bikes get 30-100 times more miles per pound of battery than an electric car<sup>9</sup>

Importantly, service territories in the Berkeley hills are no longer out of reach with new electric bicycle technology.

For police patrols, e-bikes offer the same ability as pedal bikes to increase community contact and situational awareness and to go places patrol cars cannot go. They offer advantages by doing this with extra speed and power for chases.

E-bikes also can be deployed more rapidly and at less cost than electric vehicles not only because lower capital costs, but also because they do not require expensive and highpower charging infrastructure. E-bikes use a small highly portable charger that can be plugged into any standard 120-volt outlet. They also have swappable batteries that can be replaced even faster than a gas-powered car can be refilled, eliminating downtime for charging.

Cargo e-bikes are also now being introduced into municipal fleets for small load deliveries at great savings of carbon and operating cost.

Although greenhouse emissions from the municipal fleet pale in comparison to citywide transportation emissions, the Council has concluded that the transitioning of the municipal fleet will also help inspire our residents and businesses, and will help spur new innovations that will assist with the broader citywide transition.

Micromobility and associated infrastructure costs significantly less than vehicles and associated infrastructure. Any savings accrued from avoided costs could be shifted towards climate programs that assist the broader community with eliminating transportation emissions. For example, the City has significant funding needs within its pedestrian, bicycle and Electric Mobility Roadmap.

It is in the public interest to pursue opportunities to mode shift municipal vehicles to avoid unnecessary vehicle cost and impacts as feasible.

### FINANCIAL IMPLICATIONS

The item would require staff time to consider potential transportation modal shifting,

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<sup>9</sup> Walk Bike Berkeley, "E-Bike 1000 MPG Project," <https://sites.google.com/view/ebikestudy>.



however successful shifts would likely save the City significant cost savings in both capital and operational budgets.

#### ENVIRONMENTAL SUSTAINABILITY

Supporting alternative mobility infrastructure will complement and accelerate Berkeley's ongoing efforts to reduce carbon emissions at an emergency and equitable pace in line with the Climate Action Plan, Climate Emergency Declaration and Mobility Roadmap.

#### CONTACT PERSON

Councilmember Kate Harrison, Council District 4, 510-981-7140

#### Attachments

1. Partial Itemized Vehicle Replacement List

East Bay Community Energy Fleet Electrification

Table 14: Itemized Vehicle Replacement List

Chassis	Unit #	Mk	Model	Type	Year	Dedicated Use	Division	Fuel Use	EV Fraction	Replace In	Replace with
Sedan	9102	Hon	Civic	Hybrid	2003	New Employees	Engineering	0.27	100%	2020	BEV sedan
Sedan	478	Frd	Taurus	Wagon	1999	Pool Vehicle	Equip Maint Pool	0.37	100%	2021	BEV small wagon
Sedan	489	Frd	Taurus	Wagon	1999	Pool Vehicle	Equip Maint Pool	0.67	100%	2021	BEV small wagon
Sedan	4011	Toy	Prius	Hybrid	2011	Special Purpose	Bldg & Safety	0.11	100%	2021	BEV sedan
Sedan	4108	Toy	Prius	Hybrid	2009		DHS Admin	0.15	100%	2021	BEV sedan
Sedan	6404	Frd	Fusion		2011		Comm Collection	0.13	100%	2021	BEV sedan
Sedan	6900	Hon	Civic	CNG	2003		Marina Operations	0.60	100%	2021	BEV sedan
Sedan	8192	Hon	Fit		2008	Special Purpose	Portable Meals	0.24	100%	2021	BEV sedan
Sedan	8457	Hon	Civic	Hybrid	2003	Special Purpose	FYC PROGAM	0.11	100%	2021	BEV small wagon
Sedan	8518	Frd	Focus		2001		South Berkeley Senior	0.51	100%	2021	BEV sedan
Sedan	9011	Toy	Prius	Hybrid	2002		Equip Maint Pool	0.52	87%	2021	BEV small wagon
Sedan	9013	Hon	Civic	Hybrid	2003		Equip Maint Pool	0.81	55%	2021	BEV small wagon
Sedan	9103	Hon	Civic	Hybrid	2003	Pool Vehicle	Equip Maint Pool	0.37	100%	2021	BEV small wagon
Sedan	9104	Hon	Civic	Hybrid	2003	Special Purpose	Housing Code Enforcement	0.18	100%	2021	BEV small wagon
Sedan	9106	Toy	Prius	Hybrid	2006	Code Enforcement	Housing Code Enforcement	0.16	100%	2021	BEV sedan
Sedan	9107	Toy	Prius	Hybrid	2006		Comm/ Radio's	0.50	90%	2021	BEV sedan
Sedan	9108	Toy	Prius	Hybrid	2006		Equip Maint Corpyrd	0.30	100%	2021	BEV sedan
Sedan	9109	Toy	Prius	Hybrid	2006		Equip Maint Pool	0.42	100%	2021	BEV small wagon
Sedan	9110	Toy	Prius	Hybrid	2006		Equip Maint Pool	0.26	100%	2021	BEV small wagon
Sedan	9111	Toy	Prius	Hybrid	2006		Parking Enforcement	0.31	100%	2021	BEV sedan
Sedan	9112	Toy	Prius	Hybrid	2006	Inspector	Building & Safety	0.16	100%	2021	BEV sedan
Sedan	9116	Toy	Prius	Hybrid	2010		Neighborhood Svc's	0.20	100%	2021	BEV small wagon
Sedan	9117	Toy	Prius	Hybrid	2011		DHS Admin	0.27	100%	2021	BEV sedan

East Bay Community Energy Fleet Electrification

Chassis	Unit #	Mk	Model	Type	Year	Dedicated Use	Division	Fuel Use	EV Fraction	Replace In	Replace with
SUV	1966	Frd	Escape	Hybrid	2009		Fire Training	0.87	55%	2021	PHEV SUV
SUV	2906	Frd	Escape	Hybrid	2009	Special Purpose	Equip Maint Corpyrd	0.13	100%	2021	BEV small wagon
SUV	4110	Frd	Escape	Hybrid	2008		Equip Maint Pool	0.62	79%	2021	BEV small wagon
SUV	6889	Frd	Escape		2008		Street Light Maint	1.34	72%	2021	PHEV SUV
SUV	6890	Frd	Escape	Hybrid	2009	Special Purpose	Equip Maint Corp Yard	0.06	100%	2021	BEV small wagon
SUV	9017	Frd	Escape		2009		Engineering	2.50	39%	2021	BEV small wagon
SUV	9115	Frd	Escape	Hybrid	2009	Assigned	Engineering	0.21	100%	2021	BEV small wagon
SUV	9604	Frd	Escape		2013		Trans/Disp Svc's	1.02	95%	2021	BEV small wagon
SUV	9605	Frd	Escape		2014	Special Purpose	Office of Trans.	0.16	100%	2021	BEV small wagon
Sedan	4805	Toy	Prius	Hybrid	2012		Comm/ Radio's	0.32	100%	2022	BEV sedan
Sedan	8506	Toy	Prius	Hybrid	2012		Building & Safety	0.32	100%	2022	BEV sedan
Sedan	8507	Toy	Prius	Hybrid	2012		Building & Safety	0.46	99%	2022	BEV sedan
Sedan	8508	Toy	Prius	Hybrid	2012		Building & Safety	0.30	100%	2022	BEV sedan
Sedan	8509	Toy	Prius	Hybrid	2012		Building & Safety	0.54	84%	2022	BEV sedan
SUV	1973	Frd	Escape		2013	Fire	Fire Prev/Insp/ Invest	0.50	100%	2022	PHEV SUV
SUV	1974	Frd	Escape	4WD	2013		Fire Operations	0.59	100%	2022	PHEV SUV
SUV	1975	Frd	Escape		2013		Fire/Supp/Rescue /Haz	1.10	88%	2022	PHEV SUV
SUV	1976	Frd	Escape	4WD	2013		Fire Operations	1.88	51%	2022	PHEV SUV
SUV	1977	Frd	Escape	4WD	2013		Fire Operations	1.69	57%	2022	PHEV SUV
SUV	2909	Frd	Escape		2013		Meter Repair Admin	2.55	38%	2022	PHEV SUV
SUV	8519	Frd	Escape	4WD	2013		Building & Safety	0.71	100%	2022	PHEV SUV
SUV	8520	Frd	Escape	4WD	2013	Inspector	Building & Safety	0.48	100%	2022	PHEV SUV
SUV	9004	Frd	Escape	Hybrid	2012		Corp Yard Mgmt. Office	1.35	36%	2022	BEV small wagon
SUV	9019	Frd	Escape	Hybrid	2012		Parks Facilities	0.27	100%	2022	BEV small wagon

East Bay Community Energy Fleet Electrification

Chassis	Unit #	Mk	Model	Type	Year	Dedicated Use	Division	Fuel Use	EV Fraction	Replace In	Replace with
SUV	9021	Frd	Escape		2013		Library Services	0.34	100%	2022	BEV small wagon
SUV	9119	Frd	Escape		2013		Engineering	0.99	98%	2022	BEV small wagon
SUV	9120	Frd	Escape		2013	New Employees	Engineering	0.41	100%	2022	BEV small wagon
Sedan	8006	Toy	Prius	Hybrid	2008		ASP	0.64	71%	2023	BEV sedan
Sedan	8007	Toy	Prius	Hybrid	2008		ASP/Crisis	0.63	72%	2023	BEV sedan
Sedan	9123	Toy	Prius	Hybrid	2013	Special Purpose	Vector Control II	0.11	100%	2023	BEV sedan
Sedan	2381	Frd	Escape		2014	Special Purpose	Sewer Maint	0.36	100%	2023	BEV small wagon
Sedan	8510	Toy	Prius	Hybrid	2014		Building & Safety	0.43	100%	2024	BEV sedan
Sedan	8511	Toy	Prius	Hybrid	2014		Building & Safety	0.39	100%	2024	BEV sedan
Sedan	9113	Toy	Prius	Hybrid	2009	Special Purpose	IT ADMIN	0.10	100%	2024	BEV sedan
Sedan	9126	Toy	Prius	Hybrid	2015		Meter Repair	0.20	100%	2024	BEV sedan
SUV	4114	Frd	Escape		2015		Bldg Maint	0.66	100%	2024	PHEV SUV
Sedan	1595	Frd	Fusion	Hybrid	2016		Parking Enforcement	0.24	100%	2025	BEV sedan
Sedan	8009	Toy	Prius V	Hybrid	2015		ASP/FSP	0.80	56%	2025	BEV sedan
Sedan	8010	Toy	Prius V	Hybrid	2015		ASP/FSP	0.71	64%	2025	BEV sedan
Sedan	8521	Toy	Prius V	Hybrid	2015		Building & Safety	0.36	100%	2025	BEV sedan
Sedan	8011	Toy	Prius V	Hybrid	2016		ASP	0.59	76%	2026	BEV sedan
Sedan	8012	Toy	Prius	Hybrid	2016		ASP/Crisis	0.32	100%	2026	BEV sedan
Sedan	8013	Toy	Prius V	Hybrid	2016		ASP/FSP	0.70	64%	2026	BEV sedan
Sedan	8014	Toy	Prius V	Hybrid	2016		Mental Health	0.73	62%	2026	BEV sedan
Sedan	8015	Toy	Prius V	Hybrid	2016	Special Purpose	FYC PROGAM	0.19	100%	2026	BEV sedan
Sedan	8016	Toy	Prius	Hybrid	2016		Mental Health	0.40	100%	2026	BEV sedan
Sedan	8232	Toy	Prius	Hybrid	2016		Tuolumne Camp Trk.	0.48	93%	2026	BEV sedan
Sedan	8512	Toy	Prius V	Hybrid	2016		Building & Safety	0.31	100%	2026	BEV sedan
Sedan	8522	Toy	Prius V	Hybrid	2016		Building & Safety	0.51	88%	2026	BEV sedan
Sedan	9024	Toy	Prius V	Hybrid	2016		Building & Safety	0.25	100%	2026	BEV sedan

## East Bay Community Energy Fleet Electrification

Chassis	Unit #	Mk	Model	Type	Year	Dedicated Use	Division	Fuel Use	EV Fraction	Replace In	Replace with
Sedan	9025	Toy	Prius	Hybrid	2016	Special Purpose	Neighborhood Services	0.07	100%	2026	BEV sedan
Sedan	6406	Toy	Prius	Hybrid	2016		ZW Admin	0.17	100%	2027	BEV sedan
Sedan	8017	Toy	Prius V	Hybrid	2017		ASP/Crisis	0.66	68%	2027	BEV sedan
Sedan	9026	Toy	Prius V	Hybrid	2017	Special Purpose	Toxics Management	0.13	100%	2027	BEV sedan
Sedan	9118	Toy	Prius	Hybrid	2012	Special Purpose	FYC Program	0.13	100%	2027	BEV sedan
Sedan	9121	Toy	Prius	Hybrid	2012		ASP/Crisis	0.21	100%	2027	BEV sedan
Sedan	9122	Toy	Prius	Hybrid	2012		ASP/FSP	0.78	58%	2027	BEV sedan
Sedan	9022	Toy	Prius V	Hybrid	2014	Inspector	Health Inspections	0.20	100%	2028	BEV sedan
Sedan	9023	Toy	Prius V	Hybrid	2014	Special Purpose	Toxics Management	0.11	100%	2028	BEV sedan
Sedan	9125	Toy	Prius V	Hybrid	2014		Vector Control	0.24	100%	2028	BEV sedan
Sedan	8008	Toy	Prius	Hybrid	2015		ASP/Crisis	0.37	100%	2030	BEV sedan





Civic Arts Commission

## INFORMATION CALENDAR

April 20, 2021

To: Honorable Mayor and Members of the City Council  
 From: Civic Arts Commission  
 Submitted by: Jennifer Lovvorn, Secretary, Civic Arts Commission  
 Subject: Civic Arts Commission Annual Work Plan 2021

### INTRODUCTION

The Civic Arts Commission has updated its annual work plan, which outlines Commission objectives for the 2021 calendar 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, Design Review, and Civic Center Visioning.

### CURRENT SITUATION AND ITS EFFECTS

At its regular meeting on February 24, 2021, the Civic Arts Commission approved the 2021 Civic Arts Commission Work Plan, which is used to guide the Commission's work throughout the year. M/S/C (Ozol/Dhesi) to approve 2021 Civic Arts Commission Work Plan. Vote: Ayes — Anno, Blecher, Bullwinkel, Covarrubias, Dhesi, Ozol, Passmore, Rodriguez; Nays — None; Abstain — None; Absent — Slattery.

### BACKGROUND

The Civic Arts Commission utilized the prompts provided by the City Manager's Office to assist in the development of the attached Civic Arts Commission 2021 Work Plan. Relevant details in response to the prompts are as follows.

Work plan items that have a direct nexus with the COVID-19 response:

- *Review and approve grant guidelines for Berkeley Art Works Projects, a program of temporary public art projects to support community recovery from the effects of COVID-19.*

Work plan items connected to statutory requirements:

- *Review and approve Private Percent for Art Plans at the following phases: Conceptual, Preliminary, and Final. (Required per BMC 23C.23.050)*

- *Ensure proposed building projects reviewed by Design Review Committee (DRC) Commission comply with the Private Percent for Art Ordinance. (Required per BMC 23C.23.050)*

Work plan items required for budgetary or fund allocation reasons:

- *Review Grant Panel Scores and determine Civic Art Grant award amounts for FY22.*

Work plan items that support council-adopted or voter-adopted mission critical projects or programs:

- *Advise Council on the inclusion of Affordable Housing Strategies for Artists and Cultural Workers in the City's Affordable Housing Policy Framework; and Develop a process for certifying Artists and Cultural Workers for eligibility for affordable housing; culminating in a referral to City Council.*
- *Advise Council on waivers for construction related entitlement/building permit fees for Nonprofit Arts Organizations' building projects.*
- *In response to Council Referral, develop guidelines for a Creative Spaces Capital Grant Program for Berkeley-based arts and cultural organizations that will help support their ability to stay in Berkeley. And (With Grants Committee) Advocate to Council to provide funding for a Creative Spaces Capital Grant Program on an ongoing basis to help stem displacement of Berkeley-based arts and culture nonprofits.*
- *Determine Public Art Project Sites for Measure T1 Phase 2*
- *Draft response to Council Referral for family friendly art.*
- *In response to Council Referral, develop project plan for a crosswalk mural program.*
- *In response to Council Referral, develop project plan for a City of Berkeley flag.*
- *Draft response to Council Referral for a replacement mural for the Center for Independent Living.*

Anticipated staff demands (above and beyond baseline) to support commission work in 2021:

Completion of most of the items on the work plan are dependent upon staff work – specifically any item that states “review and approve” implies that the work will be done by the two Civic Arts Program staff and approval will be done by the Civic Arts



Commission. The Civic Arts Commission discussed the ambitious nature of their 2021 Work Plan and acknowledged that the approved work plan is aspirational and will likely not be completed in full during 2021.

ENVIRONMENTAL SUSTAINABILITY

None.

POSSIBLE FUTURE ACTION

Based on Civic Arts Commission research and subsequent public hearings, new initiatives and recommendations to City Council may be submitted to City Council by the Civic Arts Commission 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 Annual Work Plan 2021



Civic Arts Commission

## **Civic Arts Commission 2021 Work Plan**

Approved by Civic Arts Commission: 2/24/2021

### **Policy Committee**

1. (With Grants Committee) Review and approve grant guidelines for Berkeley Art Works Projects, a program of temporary public art projects to support community recovery from the effects of COVID-19.
2. (With Grants Committee) Review and approve Civic Art Grants Guideline Revisions for FY22 for Individual Artists and Festivals.
3. (With Public Art Committee) Develop language for a Public Art ordinance to recommend to Council for adoption to replace the current “1.5% for Public Art” resolution.
4. Advise Council on the inclusion of Affordable Housing Strategies for Artists and Cultural Workers in the City’s Affordable Housing Policy Framework; and develop a process for certifying Artists and Cultural Workers for eligibility for affordable housing; culminating in a referral to City Council.
5. (With Grants Committee) Advocate to Council for the restoration of the Festival Grant funding level back up to \$150,000.
6. (With Grants Committee and Berkeley Arts Education Steering Committee “BAESC”) Develop guidelines for an Arts Education Grant Program and advocate to Council to allocate funding for this program.
7. Advise Council on waivers for construction related entitlement/building permit fees for Nonprofit Arts Organizations’ building projects.
8. (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.
9. (With Grants Committee) In response to Council Referral, develop guidelines for a Creative Spaces Capital Grant Program for Berkeley-based arts and cultural organizations that will help support their ability to stay in Berkeley. And (With Grants Committee) Advocate to Council to provide funding for a Creative Spaces Capital Grant Program on an ongoing basis to help stem displacement of Berkeley-based arts and culture nonprofits.

10. Create Guidelines for the selection of the City of Berkeley Poet Laureate.

### **Grants Committee**

1. (With Policy Committee) Review and approve grant guidelines for Berkeley Art Works Projects, a program of temporary public art projects to support community recovery from the effects of COVID-19.
2. Select Grant Review Panelists for FY22 cycle.
3. Review Grant Panel Scores and determine Civic Art Grant award amounts for FY22.
4. (With Policy Committee) Review and approve Civic Art Grants Guideline Revisions for FY22 for Individual Artists and Festivals.
5. (With Policy Committee) Advocate to Council for the restoration of the Festival Grant funding level back up to \$150,000.
6. (With Policy 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.
7. Review analysis prepared by staff of geographic spread of FY22 grants funds throughout City of Berkeley.
8. (With Policy Committee) In response to Council Referral, develop guidelines for a Creative Spaces Capital Grant Program for Berkeley-based arts and cultural organizations that will help support their ability to stay in Berkeley. Advocate to Council to provide funding for a Creative Spaces Capital Grant Program on an ongoing basis to help stem displacement of Berkeley-based arts and culture nonprofits.

### **Public Art Committee**

1. Review and approve temporary public art proposals funded through the Berkeley Art Works Project grants.
2. (With Policy Committee) Develop language for a Public Art ordinance to recommend to Council for adoption to replace the current “1.5% for Public Art” resolution.
3. Determine Public Art Project Sites for Measure T1 Phase 2
4. Review and approve artwork purchase for Civic Center building.
5. Review and approve Private Percent for Art Plans at the following phases: Conceptual, Preliminary, and Final.

6. Review and approve artwork commission by Mildred Howard for Adeline Street and Martin Luther King Jr. Way.
7. Draft response to Council Referral for family friendly art.
8. Planning for selection of next round of sound installations for BART Plaza.
9. Review and approve specific installation site for the donated Assyrian Queen sculpture.
10. Review and approve the Call for Artists for the Homelessness Social Practice Public Art Project.
11. (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.
12. In response to Council Referral, develop project plan for a crosswalk mural program.
13. In response to Council Referral, develop project plan for a City of Berkeley flag.
14. Review and approve designs for a memorial to the Irish students who died in the 2015 balcony collapse.
15. Draft response to Council Referral for a replacement mural for the Center for Independent Living.

### **Commission Representative to the Berkeley Arts Education Steering Committee**

1. Build relationships with Berkeley Unified School District (BUSD) Board Members by attending office hours and sharing Create CA Declaration of Student Rights
2. Discuss and draft advocacy plan to bring to BUSD School Board to increase access to theater, dance, and visual arts education in Berkeley schools.
3. Monitor implementation of BUSD BEARS (Berkeley's Excellent Academic Road to Success) 2021 Arts Summer Program and fulfil grant reporting expectations.
4. Support utilization of high school and/or college students as BEARS 2021 summer arts instructors in collaboration with arts organizations, funded through Youth Works workforce development funding.
5. Explore feasibility of developing partnerships with colleges and universities to offer unit credit for teaching in BUSD afterschool and summer arts programs.
6. (With Policy & Grants Committees) Develop guidelines for an Arts Education Grant Program and advocate to Council for funding for this program.

7. Engage Berkeley Families and Community to celebrate current arts education programming and offer ideas about the future Berkeley Art Hub.

**Commission Representative to the Design Review Committee (DRC)**

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. Convene monthly meetings to determine, with stakeholder input, the arts and cultural uses and associated space needs for the Veterans Memorial Building, the Maudelle Shirek Building (Old City Hall), and Martin Luther King Jr. Civic Center Park with input from stakeholders.





Office of the City Manager

## INFORMATION CALENDAR

April 20, 2021

To: Honorable Mayor and Members of the City Council  
 From: Community Health Commission  
 Submitted by: May Simpson, Chairperson, Community Health Commission  
 Subject: Community Health Commission 2021 Work Plan

### INTRODUCTION

The Community Health Commission has updated its 2021 work plan, which outlines Commission goals and priorities for the current year. This work plan is guided through a health equity lens seeking to address the health inequities in Berkeley, while advancing other pertinent public health efforts.

### CURRENT SITUATION AND ITS EFFECTS

At the special meeting on December 10, 2020, the Community Health Commission took the following action:

M/S/C (Webber/Rosales): Motion to approve 2021 Community Health Commission Work Plan.

**Ayes:** Engelman, Webber, Carter, Smart, Gilman, Spigner, Rosales, Katz, Imai.

**Noes:** None.

**Absent:** Nightingale, Rojas-Cheatham, Porter.

### BACKGROUND

See attached Work Plan (Attachment 1).

### 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

Roberto Terrones, Commission Secretary, HHCS, PH, (510) 981-5324

Attachments:

1: Community Health Commission 2021 Work Plan





Office of the City Manager

## Community Health Commission 2021 Work Plan

Guiding Philosophy: To look at health through the lens of equity, and to address, ameliorate, and abolish health inequities in Berkeley through our work while advancing other public health efforts.

### Mission/Purpose:

1. Collaborate with the community and the Berkeley Public Health Division, and City of Berkeley to eliminate health inequity by:
  - a. Advocating for good policy to council that has the potential to improve the health of Berkeley residents that can be implemented, monitored, and evaluated.
  - b. Representing the community through the diversity of this commission
  - c. Increasing the public education/social marketing efforts, understanding, and awareness of issues
  - d. Advocating together with the residents of Berkeley most affected by institutional, social, organizational inequities/disparities
  - e. Providing a public forum for all community members to share concerns, ideas
2. Achieve general public health progress by being responsive to community needs and facilitating general health and safety.

### Overall goals, issues & priorities: All issues can be addressed through a health equity lens.

- Include a focus on the impact of covid-19 and the city's response to it
- Increase healthy food security
- Advocate for the expansion of affordable housing
- Continue to urge that Alta Bates Berkeley Medical Campus remain open while also helping to suggest actions to address consequences of planned closure
- Be responsive in potential recommendations to help Berkeley residents, and care providers and clinics cope with potential federal disruption in healthcare policy and federal spending cuts
- Further address more social determinants of health
- Continue to be a community advocate to City Council to address structural, institutional, and health inequities impacting all underserved populations

- Work to have community health data measures documented in a timely manner and to promptly evaluate and act on novel data such as the Health Status Report
- Work to support policies and initiatives that advance UHC such as Medicare for all
- Advise the City Council as the Public Health Department develop their strategic plan

General steps and actions needed to meet priorities:

1. Better follow up with council implementations
2. Conduct outreach to encourage the Berkeley community to engage with the CHC
3. Collaborate with other commissions to share resources and support recommendations
4. Focused/specialized ad-hoc subcommittees
5. Keep track of local, state, and federal policy and data flow

Specific steps and actions needed to meet priorities: Subcommittees

- **Strategic Planning subcommittee**
  - Serve as point of contact with Public Health Division for city's strategic plan and facilitate deliberation between full commission and division.
  - Recommend structure of portion of agenda to educate commission on strategic plan development
- **Acute Services for Berkeley**
  - Continue to recommend actions to keep Alta Bates open
  - Consider ways to increase emergency care access in Berkeley
- **Basic Needs Security**  
Focus on healthy food security and affordable/accessible housing
  - In terms of healthy food security:
    - Identify food recovery donation systems
    - Connect communities with healthy food resources (awareness)
    - Advocate for policies to mitigate unhealthy food consumption
    - Advocate for affordability and accessibility of healthy foods
      - in supporting programs like the Berkeley Food Institute, etc.,
  - In terms of accessible/affordable housing:
    - Identify areas of stark homelessness
    - Connect homeless communities with resources (awareness)
    - Advocate for affordable housing
    - Advocate for increased rent control

- Investigate how Covid-19 has exposed and increased the impact of inequities on basic needs of Berkeley residents
- Connect with the community based organizations and appropriate city of Berkeley departments to acquire information about available resources for Berkeley residents.
- Work with community based organizations to disseminate resources to Berkeley residents around basic needs, including housing, food, healthcare, and public health care
- **Policy tracking**
  - Track City Council minutes, state, and national legislative actions
  - Priority areas:
    - Affordable housing throughout the city of Berkeley
    - Homeless encampments: ensure they are receiving necessary care and resources
    - Covid-19 related policies
      - Access to education due to remote learning
- **Health Equity Subcommittee**
  - Engage Stakeholders on LGBT health equity issues to help complement findings of the Health Status Report
  - Follow up on status of the African American Holistic Resource Center
  - Work on cultural competency for health care providers
  - Review the Health Status Report- dialogues with staff and community to investigate the data and inequities, and recommend program interventions for the City Public Health Division
  - Implement efforts to improve immigrant access to health care
  - Investigate community access to telehealth and other technologies to improve healthcare equity
  - Meet with the public health officer to be informed and updated regarding the city's response to Covid-19, including the vaccination program, and ensure the consideration of health equity to include at risk populations based on emerging literature
- **Chronic Disease Prevention**
  - Recommend presenters that can educate the commission on innovative approaches to chronic disease prevention
  - Consider the use of high profile figures in media campaigns to educate the community about chronic disease prevention.
  - Recommend interventions to address diabetes, obesity, heart diseases, and other chronic conditions highlighted by the Berkeley health status report.

- Recommend interventions to respond to deferred preventative care due to covid-19
- **Cannabis**
  - Advocating for holistic education of cannabis use throughout the community
  - Assessing holistically the risks and benefits of cannabis use in terms of community health
  - Assessing holistically how cannabis should be integrated within the local economy while maintaining the health of the community .i.e. nurseries, dispensaries, etc.
  - Prioritizing community health following the legalization of cannabis with emphasis on holistically understanding the risk and benefits of cannabis



Disaster and Fire Safety Commission

INFORMATION CALENDAR

April 20, 2021

To: Honorable Mayor and Members of the City Council  
 From: Disaster and Fire Safety Commission  
 Submitted by: Jose Luis Bedolla, Chairperson, Disaster and Fire Safety Commission  
 Subject: Disaster and Fire Safety Commission Work Plan 2021

INTRODUCTION

As directed by the City Council, the Disaster and Fire Safety Commission (DFSC) hereby submits its workplan for 2021.

CURRENT SITUATION AND ITS EFFECTS

On February 24, 2021, the Disaster and Fire Safety Commission passed a motion to submit the attached annual commission work plan. Motion: G. Couzin; Second: S. Dean; Vote: 8 Ayes: Couzin, Dean, Rader, Simmons, Degenkolb, Grimes, Bradstreet, Bedolla; 0 Noes; 1 Absent: Stein, 0 Abstain.

BACKGROUND

On July 19, 2016, the City Council approved a consent item that directs Berkeley Commissions, with the exception of the Board of Library Trustees, the Zoning Adjustments Board, and the Design Review Committee, to submit a workplan to the City Council at the beginning of each fiscal year.

ENVIRONMENTAL SUSTAINABILITY

Not applicable.

POSSIBLE FUTURE ACTION

Not applicable.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Not applicable.

CONTACT PERSON

Keith May, Assistant Fire Chief, Berkeley Fire Department, 510-981-5508

Attachments:

1: 2021 Disaster and Fire Safety Commission Work Plan

# Berkeley Disaster and Fire Safety Commission WORK PLAN – 2021

## Mission Statement

The Disaster and Fire Safety Commission serves as the public oversight group for Berkeley's Measure GG and Measure FF funds, charged with reviewing the budget on a regular basis to ensure that the funds are spent in accordance with the intent of the voter approved measures, recommending the appropriate annual increase to the tax rate, and recommending new programs and positions requiring Measure GG and Measure FF funding.

The Commission also focuses on ways to increase community safety and resilience, working on education, community disaster preparedness, and other strategies as appropriate, and making recommendations to the City Council for adoption and implementation.

Lastly, the Commission reviews and makes recommendations on items referred by the City Council or other Commissions.

## Summary of 2021 Work Plan Activities

	Topic	Resources	Activities	Outputs	Outcomes
1	Fire safety & community resilience in the face of a wildland-urban interface fire	Staff time, venue	Research, staff reports and information gathering	Recommendations on alerting, parking restrictions, evacuation planning, veg. mgmt., structure hardening and other topics to improve wildfire safety	Fire prevention and pre-planning to save lives, reduce economic loss and mitigate spread through fuel management.
2	Improve community resilience throughout Berkeley with a whole community approach	Community members' time (volunteer), Commissioner time, and staff time.	Organize and participate in a working group for community based disaster response	Recommendations to City Council to improve community resilience throughout Berkeley. May include Measure GF/FF fund expenditures.	Improvement in community preparedness and communications, especially in previously underserved communities & neighborhoods
3	Ensure that Measure GG and Measure FF Funds are spent appropriately	Commissioner time, staff time	Measure GG and FF spending report is reviewed by the Commission every quarter	Recommendations to City Council to ensure funds are spent in accordance with the measures.	Fire stations remain open & preparedness and emergency response is improved by using Measure

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4	Help other city entities incorporate a disaster and fire safety perspective into decisions	Commissioner time, staff time.	Respond to referrals seeking input on matters relating to disaster and fire safety.	Recommendations or other documentation to City Council and other Commissions that send referrals.	GG and FF funds as intended. Incorporates disaster preparedness into City decisions, leading to a safer and more resilient city.
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## Work Plan Details

### 1. FIRE SAFETY AND COMMUNITY RESILIENCE IN THE FACE OF A WILDLAND-URBAN INTERFACE FIRE

#### Resources

Specific resources include staff time to properly notice meetings and council submissions prepared by the Disaster Fire Safety Commission. A venue and staff time may be needed for community meetings.

#### Program Activities

##### COMMUNITY EMERGENCY ALERTING AND EVACUATION

- This Commission has recommended that the city install sirens as a component of the suite of available alerting tools. We will continue to follow up on the progress of this recommendation through the budgeting process.
- Review and provide feedback and recommendations on the city's draft evacuation plan.
- Review and provide feedback and recommendations on the city's emergency alerting protocol.
- Commissioners will attend community events and integrate community feedback and concerns into alerting and evacuation recommendations. Observe and/or participate in any evacuation drills that the City or community groups run in 2021.
- Integrate the needs and contributions of seniors and people with mobility challenges or other access and functional needs in all of our emergency alerting and evacuation recommendations.

##### SAFE PASSAGES – HOUSING DENSITY, ACCESS & EGRESS ON NARROW STREETS

- Create a Working Group or Subcommittee to focus on questions related to access & egress on narrow streets, including housing density, ADU construction, parking restrictions, home occupation rules, and any other related topics.
- Review and provide recommendations on access and egress needs in a WUI fire, specifically the Safe Passages program that is part of the City's Wildfire Safety Plan
- Review and provide feedback on parking plans, including changes in rules for on-street and off-street marking
- Review and provide feedback on ordinances relevant to increasing population density in the hills, including but not limited to rules regarding ADU construction

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- A member of the Commission will review agendas for other Commissions such as the Planning and Public Works Commission meetings and City Council meetings where parking changes, housing density changes or other changes that will impact fire and evacuation safety are discussed.

### REDUCE VEGETATION AND FIRE HARDEN<sup>1</sup> PROPERTIES

Scientists, State and local fire department officials, Wildfire responders, and forest management experts agree that the new California “norm” includes continued droughts and disastrous urban interface wildfires. Through studies and experience, there is agreement that individual property owners are an essential component in the successful achievement of fire prevention goals that will increase life safety, reduce economic impact and preserve the environment. The Commission will take an active role to achieve these broad fire prevention goals through recommendations to the City Council in the following areas:

- Policy declarations and advocacy in support of fire prevention activities at all levels of government;
- Public outreach regarding fire prevention planning, activities and responsibilities;
- Collection, analysis and distribution of financial information, including grants, fees, loans and insurance, related to fire prevention at both citywide and neighborhood levels.

Goals include:

- Support the City’s community outreach measures to improve vegetation management and slow the spread of a WUI fire in the hills.
- Ensure that vegetation management is compliant with sustainable best practices, including local composting.
- Seek any available data on use of the chipper program, and explore if changes to the program would increase adoption.
- Review and provide recommendations on new approaches to vegetation management, including employment of Youthworks (city youth jobs program) staff over the summer to reduce fire fuel in the hills.
- Provide input on development of a fire safety plan, including a post-fire plan for cleanup of materials, including toxic materials, following an WUI fire.

### *Additional Items*

Commissioners working independently in other capacities (such as in neighborhood groups in the hills, or as volunteers) may develop ideas to improve WUI safety in those environments and bring these to the Commission for consideration throughout the year.

### **Outputs**

- Recommendations to City Council regarding parking restrictions on the hills, siren expenditures, ADU rules, vegetation management and any other topics relevant to improving wildfire safety in the City.

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<sup>1</sup> To fire harden a property is to take steps that make the home and property more fire-resistant.



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- Feedback to city staff on the Draft Evacuation Plan and alerting tools and protocols.
- Recommendations to support testing and drills to ensure that both staff and residents are prepared to carry out emergency alerting and evacuations

### **Outcomes**

Prevent loss of life by improving the City's planning and available tools to create a safe and efficient evacuation of all endangered residents in the case of a major WUI fire. Improve and practice emergency alerting so that all residents are alerted adequately and in a timely manner of any life-threatening hazards such as an approaching fire. Reduce as much as is feasible, economic losses to property owners.

## **2. IMPROVE COMMUNITY RESILIENCE THROUGHOUT BERKELEY WITH A WHOLE COMMUNITY APPROACH**

### **Resources**

Resources include community members' time (volunteer), Commissioners' and staff time to participate in working group and/or subcommittee work, and staff time to present yearly Berkeley Ready presentations to Commission.

### **Program Activities**

Support accessible preparedness outreach, training and communication, with a special focus on underserved and/or vulnerable members of our community, including residents of South and West Berkeley, seniors, persons with disabilities, families with children, Spanish-speakers, and renters. Consider ideas toward the goal of equitably and adequately serving all people who live, work, study or play in Berkeley.

### *COVID-19 Response*

The COVID-19 pandemic is an ongoing disaster that impacts every person and institution in the City. It has exposed gaps and inequities in city services and all aspects of our social system including healthcare, education, food systems, housing and more.

Commission member(s) will stay apprised of City activities as well as community-based activities in response to this pandemic and, if appropriate, provide recommendations to Council. The Commission will make thoughtful, science-based recommendations to reduce suffering and protect and preserve life, health, property, and City funds.

- Understand and hear from the communities that are most impacted by COVID-19, to compile case studies of the community lifelines (store closure, transit, etc.) impacts for Council, if appropriate. Report on community members who are working to support each other through this crisis and make recommendations on possible coordination and support.
- Recognize that forms of support that require internet access, bodily ability, driving a car, having existing healthcare, or other forms of privilege can reinforce existing inequities. Commission will integrate a lens of equity into any COVID-19 related recommendations.

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- Recognize that strengthening the City’s resilience in the face of COVID-19 and similar future disasters will take many forms that may not look like the professional, top-down based approach that has been followed in the past.

### *Community Based Disaster Response*

Commission member(s) will continue to explore ways to support community-based post-disaster response, creating an inclusive, broad-based response that better meets the post-disaster needs of all people in Berkeley:

- explore options to help give the community a better structure or pathway to participate in disaster response.
- explore ways to improve and support social cohesion throughout the city that will naturally increase post-disaster assistance, information-sharing, and shared resources among neighbors.
- explore options to streamline and reducing the cost of permits for Seismic Shutoff Valves and other disaster preparedness upgrades

To stay apprised of CERT, Berkeley Ready, and other activities in the City, the Commission will host presentations at Commission meetings by the following groups:

- Berkeley Ready staff presentation(s)
- Berkeley Disaster Preparedness Neighborhood Network (BDPNN)
- Berkeley Mutual Aid (BMA)
- Berkeley Path Wanderers
- Others as appropriate

### *Additional Items*

Commissioners working independently in other capacities (such as with schools and businesses) may develop ideas to improve community resilience in those environments and bring these to the Commission for consideration throughout the year.

### **Output(s)**

- Develop recommendation(s) to City Council to enhance Berkeley Ready, CERT and other city programs to support community resilience. Develop recommendations to fund or otherwise support activities of Berkeley Disaster Prep Neighborhood Network, Path Wanderers, Berkeley Mutual Aid, or other community groups.

### **Outcomes**

Measurable improvement to Berkeley’s community preparedness. Measurement may be in number of people reached, or number of active volunteers, or new previously underserved populations reached.

## **4. ENSURE THAT MEASURE GG AND MEASURE FF FUNDS ARE SPENT APPROPRIATELY**

### **Resources**

Commissioners’ time and staff time to generate financial reports and present them to the Commission every quarter.

### **Program Activities**

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- Commission will review and provide input on Measure GG and Measure FF expenditure plans as early as possible in the budgeting process, and engage collaboratively with City staff to ensure that these funds are spent in accordance with voter intentions.
- Commission will make recommendations on appropriate allocations for programs and positions requiring Measure GG and Measure FF funding.
- Staff to generate a Measure GG and Measure FF spending report every quarter, or more often if needed
- Commission to provide recommendation on optional tax percentage increase each year
- Member(s) of the Commission will engage with the Re-Imagining Safety process by participating in or observing task force meetings or other related events, so that the Commission can stay apprised of any budgeting changes that result from Re-Imagining Safety, and the potential for available funds to be applied to dispatch upgrades or any other Measure GG or Measure FF-funded programs.

### **Output(s)**

The Commission will create recommendations to Council if needed to ensure that Measure GG and FF funds are used to enhance the safety of the Berkeley community and remain within the definition, scope, and intentions of the original law.

### **Outcomes**

With funds correctly allocated, the goals of Measures GG and FF are maintained: keeping all fire stations in the city open 24-7, improving community resilience through programs such as Berkeley Ready, adequately training firefighters and paramedics, maintaining and replacing necessary equipment and facilities, planning and preparing for wildfires, and upgrading and modernizing the City's 9-1-1 dispatch system.

## **5: HELP OTHER CITY ENTITIES INCORPORATE A DISASTER AND FIRE SAFETY PERSPECTIVE INTO DECISIONS**

### **Resources**

Commissioners' time for research and recommendation creation

### **Program Activities**

Respond to requests for input on matters relating to disaster and fire safety. Requests may come from City Council, City Staff, other Commissions, or the public.

- Examples of recent referrals:
  - City Council referral for feedback on requiring gas shut-off valves
  - Planning Commission request for feedback on ADU Emergency Ordinance
- Provide input into Council decisions when decisions will affect disaster resilience or fire safety in Berkeley

Recommendations may also be generated in absence of a referral, when the Commission determines that input into Council decisions is necessary to serve Berkeley's resilience in disaster and fire safety.

### **Output(s)**

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Recommendations to City Council or communications with other city entities, often in response to referrals.

**Outcomes**

City Council will incorporate fire safety and disaster preparedness considerations into decisions, leading to a safer and more resilient city.



Measure O Bond Oversight Committee

## INFORMATION CALENDAR

April 20, 2021

To: Honorable Mayor and Members of the City Council  
 From: Measure O Bond Oversight Committee  
 Submitted by: Igor Tregub, Chairperson, Measure O Bond Oversight Committee  
 Subject: FY 2021 Measure O Bond Oversight Committee Work Plan

### INTRODUCTION

On March 17, 2020, the City Council adopted Resolution No. 69,331-N.S. which placed limitations of the meetings of City legislative bodies, including all boards and commissions. On October 22, the City Manager authorized commissions to meet to adopt a Work Plan. At its February 1, 2021 meeting, the Measure O Bond Oversight Committee (MOBOC) adopted its Fiscal Year (FY) 2021 Work Plan (Attachment 1).

### CURRENT SITUATION AND ITS EFFECTS

On February 1, 2021, the MOBOC adopted the attached work plan through the action detailed below.

Action: M/S/C (Carr/Lustig) to accept the proposed workplan as drafted in the supplemental item from Commissioner Tregub, amended to state that the Commission will advise the Council on affordable housing development funds and funding available on upcoming proposals that could be funded under Tranches 2, 3, or 4 of Measure O dollars.

Vote: Ayes: Calavita, Carr, Costantini, Cutler, Lee-Egan, Lustig, Marthinsen, and Tregub. Noes: None. Abstain: None. Absent: Daniels (unapproved).

### BACKGROUND

In 2016, the City Council adopted direction to commissioners to submit a work plan annually. The plan for FY20/21 was halted due to the suspension of regular commission meetings due to COVID-19.

### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable direct environmental sustainability impact associated with the adoption of this work plan. The financing of affordable housing, however, increases the chances of affordable housing being constructed, and, when sited in proximity with transit and amenities, has been found to reduce vehicle miles traveled and greenhouse gas emissions.

POSSIBLE FUTURE ACTION

The commission is working on several priorities in alignment with this work plan, and may bring them to the Council for action in the future.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Fiscal impacts will depend on the actions recommended and the Council's decision.

CONTACT PERSON

Jenny Wyant, Acting Commission Secretary, HHCS (510) 981-5228

Attachment 1: FY 2021 Work Plan



Measure O Bond Oversight Committee

## Appendix 1: Measure O Committee Fiscal Year (FY) 2021 Work Plan

### Committee Charge and Overview

The Measure O Oversight Committee is a newly established advisory body to the Berkeley City Council, subject to the rules and procedures established by the City of Berkeley's Commissioner's Manual (the City uses "commission" broadly to encompass all appointed Council bodies including committees and panels). The role of a commission, including this one, is to advise the City Council. The City Council is responsible for accepting, rejecting, or modifying commission recommendations. The Council must weigh the effect of any given recommendation, not only on the particular area of interest but on all other City goals and programs. Ultimately, it is at the Council's discretion to accept, amend or reject any of this committee's recommendations.

This committee was established by Council in response to the voter adopted Measure O affordable housing bond. The adopted resolution accompanying the measure states that all Measure O related bond expenditures will be subject to oversight by this committee to confirm that Bond expenditures are consistent with the intent of this Measure. Council may seek additional input on funding applications and commitments of Measure O funds at their discretion.

### Committee Work Plan

There is not a clear timetable for when regular commission schedules will be re-established. The frequency of meetings will be determined by the conditions the City of Berkeley is experiencing under the pandemic and its emergency proclamation.

The following items are proposed as part of committee's work plan with the caveat above. If conditions improve, there will be more frequent commission meetings, which will help the commission adhere to this workplan.

- I. **Advise the Council on affordable housing development funds and funding availability on upcoming proposals that could be funded under Tranches 2, 3, or 4 of Measure O dollars.** Examples of such projects include:
  - A. Ashby and North Berkeley BART Station Areas and Future Housing Funding Notices of Funding Availabilities (NOFAs)
  - B. NOFA for Berkeley Unified School District Educator Housing

*Prioritization justification: Required for budgetary, fund allocation, council-adopted mission statutory reasons (language of 2018 Measure O Bond), and/or request for advisory review by the City Council.*

**II. Provide oversight and guidance to Council on the funding allocation and utilization of Measure O dollars for projects recommended for funding under Tranche 1 dollars and/or forward-commitments of Tranche 2 dollars.** Examples of such projects include:

- A. 1740 San Pablo Avenue – BRIDGE Housing
- B. 2527 San Pablo Avenue – Satellite Affordable Housing Associates (SAHA)
- C. 2012 Berkeley Way – Berkeley Food & Housing Project (BFHP) / BRIDGE Housing
- D. BFHP Hope Center PSH (2012 Berkeley Way) – BFHP/BRIDGE
- E. BRIDGE Berkeley Way (2012 Berkeley Way) – BRIDGE
- F. Jordan Court (1601 Oxford) – SAHA
- G. Maudelle Miller Shirek Community (2001 Ashby) – Resources for Community Development

*Prioritization justification: Required for budgetary, fund allocation, and statutory reasons (language of 2018 Measure O Bond)*

**III. Respond to outstanding Council referrals to Measure O Committee**

- A. Strategic Plan Project – Increase Affordable Housing: Measure O Implementation – Implement plan to expand affordable housing options with Measure O funding as defined by Council
- B. 12/8/20 Referral – Reserve Funds for Affordable Housing in the Adeline Corridor – Set-aside at least an initial allocation of \$50 million of local funds for affordable housing (e.g., Measure O, Measure U1, Measure P, Housing Trust Fund) for the Adeline Corridor, and in particular, for the Ashby BART subarea
- C. Any other referrals that may be approved by the City Council during the course of FY2021.

*Prioritization justification: Council-adopted mission and/or request for advisory review by the City Council.*





# 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